

***United States Court of Appeals
for the Second Circuit***



AMICUS BRIEF

76-6150

**United States Court of Appeals
FOR THE SECOND CIRCUIT**

Docket No. 76-6150

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff-Appellee,

—v.—

**LOCAL 14, INTERNATIONAL UNION OF OPERAT-
ING ENGINEERS, LOCAL 15, INTERNATIONAL
UNION OF OPERATING ENGINEERS, et al.,**
Defendants-Appellants.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**AMICUS CURIAE BRIEF OF THE UNITED STATES OF
AMERICA IN SUPPORT OF THE PETITION OF THE
E.E.O.C. FOR REHEARING AND SUGGESTION FOR
REHEARING IN BANC**

ROBERT B. FISKE, JR.,
*United States Attorney for the
Southern District of New York,
Attorney for the United States
of America.*

**MICHAEL S. DEVORKIN,
DENNISON YOUNG, JR.,**
*Assistant United States Attorneys,
Of Counsel.*

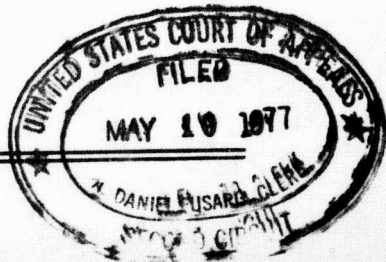


TABLE OF CONTENTS

	PAGE
Preliminary Statement	1
Reasons For Amicus Curiae Position of the United States of America	2
Reasons for the Petition	3
Statement of the Case	4
a. District Court's Findings	4
1. Union Membership Requirements	5
2. Union Referral Practices	6
3. Local 15's Recruitment and Training Practices	7
4. Lack of Affirmative Action by Local 15	8
b. Affirmative Relief Granted By the District Court	8
c. The Panel's Opinion	9
ARGUMENT:	
POINT I—The Statistics Which The Panel Used To Upset The District Court's Finding Of Liability Against Local 15 Were Materially Wrong	11
A. The Panel Used A Post-Act Minority Admissions Rate Into Local Union 15 Of 20% When The Only Correct Figure Is 9.5% ..	11
B. The Union Understated The Minority Percentage Of The Work Force In The Area Where Union Members Reside As 16.2%, When The Actual Figure is 24.1%. Accordingly, Any Error In The Choosing Of A Geographic Area By The District Court Was Harmless	15

	PAGE
C. The District Court's Choice of New York City As The Correct Geographic Area For The Relevant Labor Force Was Consistent With Previous Decisions Of This Court And The Cases Relied On By The Panel. The Panel's Use Of Union Members' Residence As The Singular Basis For Determining The Relevant Geographic Area Was Inappropriate	19
POINT II—The Government Sustained Its Burden Of Proof Irrespective Of The Statistics	25
POINT III—The Remand Of The Entire Relief Granted By The District Court, If Warranted At All, Was Far Too Broad And Should Have Been Limited To Only Those Provisions Relating To Or Affecting Directly The Contractors Associations	28
A. Remand As To The Unions Was Improper	28
B. The Relief Ordered Against The Unions Was Justified And Mandated By Title VII, And The Record Below Was More Than Sufficient	33
CONCLUSION	37
Appendix	A-1

TABLE OF AUTHORITIES

Cases Cited:

<i>Albermarle Paper Co. v. Moody</i> , 422 U.S. 405 (1975)	31, 34, 35, 36
<i>Bowe v. Colgate-Palmolive Company</i> , 416 F.2d 711 (7th Cir. 1969)	34

	PAGE
<i>E.E.O.C. v. Local 28</i> , 532 F.2d 821 (2d Cir. 1976)	
	16, 24, 30, 33, 35
<i>Franks v. Bowman Transportation Co.</i> , 424 U.S. 747 (1976)	33, 34
<i>Jenkins v. United Gas Corp.</i> , 400 F.2d 28, 33 (5th Cir. 1968)	12
<i>Kirkland v. New York State Department of Correctional Services</i> , 520 F.2d 420 (2d Cir. 1975), rehearing denied, 531 F.2d 5 (1975), cert. denied, 45 U.S.L.W. 3249 (Oct. 5, 1976)	35
<i>Louisiana v. United States</i> , 380 U.S. 145 (1965)	34
<i>Morrow v. Crisler</i> , 419 F.2d 1053 (5th Cir.) (in banc), cert. denied, 419 U.S. 859 (1974)	34
<i>Patterson v. Newspaper and Mail Deliverers' Union</i> 384 F. Supp. 585 (S.D.N.Y. 1974), aff'd, 514 F.2d 767 (2d Cir. 1975), cert. denied sub nom. <i>Larkin v. Patterson</i> , 44 U.S.L.W. 3756 (June 30, 1976)	17, 18, 21, 33
<i>Rios v. Enterprise Ass'n of Steamfitters Local 638</i> , 501 F.2d 622 (2d Cir. 1974), on remand, 400 F. Supp. 983 (S.D.N.Y. 1975)	16, 18, 20, 21, 22, 33, 35
<i>United States v. Int'l Union of Elevator Constructors, Local 5</i> , 538 F.2d 1012 (3d Cir. 1976), aff'g 398 F. Supp. 1237 (E.D. Pa. 1975)	24
<i>United States v. Hazelwood School District</i> , 534 F.2d 805 (8th Cir. 1976), cert. granted, 45 U.S.L.W. 3454 (Jan. 10, 1977)	23
<i>United States v. Ironworkers Local 86</i> , 443 F.2d 544 (9th Cir.), cert. denied, 406 U.S. 950 (1972)	25, 26

	PAGE
<i>United States v. Local 638 Enterprise Ass'n, . . .</i>	
<i>Local 40, 347 F. Supp. 169 (S.D.N.Y. 1972) . .</i>	18
<i>United States v. Untied Bros. of Carpenters & J.,</i>	
<i>Local 169, 457 F.2d 210 (7th Cir. 1972)</i>	19
<i>United States v. Wood, Wire & Metal Lathers, Local</i>	
<i>46, 341 F. Supp. 694 (S.D.N.Y. 1972), aff'd,</i>	
<i>471 F.2d 408 (2d Cir.), cert. denied, 412 U.S.</i>	
<i>939 1973)</i>	30, 33, 36

STATUTES

42 U.S.C. § 2000e-5(f)	2
42 U.S.C. § 2000e-6(b)	36

OTHER

<i>Geographic Profile of Employment and Unemploy-</i>	
<i>ment, 1973, U.S. Department of Labor, Bureau</i>	
<i>of Labor Statistics</i>	18
<i>General Social and Economic Characteristics, 1970</i>	
<i>Census of Population-New York, U.S. Depart-</i>	
<i>ment of Commerce</i>	16

**United States Court of Appeals
FOR THE SECOND CIRCUIT**

Docket No. 76-6150

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff-Appellee,

—v.—

LOCAL 14, INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 15, INTERNATIONAL UNION
OF OPERATING ENGINEERS, et al.,
Defendants-Appellants.

**AMICUS CURIAE BRIEF OF THE UNITED STATES OF
AMERICA IN SUPPORT OF THE PETITION OF THE
E.E.O.C. FOR REHEARING AND SUGGESTION FOR
REHEARING IN BANC**

Preliminary Statement

The United States of America respectfully suggests that this Court grant the petition of the Equal Employment Opportunity Commission (hereinafter "E.E.O.C.") for rehearing and suggestion for rehearing *in banc*, of the opinion of a panel of this Court (Timbers, Gurfein and Van Grasseiland, *J.J.*), filed March 21, 1977, reversing a judgment of liability against Local 15 entered in the United States District Court for the Southern District of New York and remanding for a reconsideration of the order for relief entered by the district court.

E.E.O.C. v. Local 14, International Union of Operating Engineers, et al., No. 76-6150, slip. op. 637 (2d Cir. March 21, 1977).

Reasons For Amicus Curiae Position of the United States of America

This amicus curiae brief in support of the E.E.O.C.'s petition for rehearing and suggestion for rehearing *in banc* is submitted by the United States of America for two reasons.

First, this case was filed on behalf of the United States of America by the United States Attorney for the Southern District of New York, and tried and handled by that office in the district court. Because it handled the trial of this matter, which has a lengthy record, the office of the United States Attorney for the Southern District of New York is most familiar with the facts, and a careful review of the panel's decision makes it clear that in a number of significant respects the decision is premised on certain factual errors.

Second, the United States of America still has exclusive authority on behalf of the federal government for the judicial enforcement of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f), with respect to public employees. The panel's decision, if left unaltered, may affect the efforts of the United States of America to enforce Title VII against public employers.

Reasons for the Petition

The panel's decision in this case should be reheard, preferably by an *in banc* Court, for six reasons.

First, Local 15's post-Civil Rights Act minority admissions rate was not 20%, as represented to and then

used by the panel to negate the findings of discrimination by Local 15. The true figure, based on the same trial record used by Local 15 for its calculations, is 9.5%. Accordingly, no matter how the comparative minority work force is defined and calculated, a *prima facie* case of discrimination by Local 15 was established and should have been affirmed.

Second, assuming it is proper to use the areas of union members' residences to define the relevant work force area (here, Northeastern New Jersey and the New York SMSA), Local 15 also miscalculated the minority percentage of the work force of this area to be 16.2%. The actual figure, based on the same source of data for the evidence advanced for the first time by Local 15 to the panel, is approximately 24.1%. Thus using Local 15's own suggested geographic area to define the relevant work force, there was still an overwhelming *prima facie* case.

Third, the panel erred in concluding that the district court chose the wrong geographic area. The district court's use of New York City was consistent with other Second Circuit cases *and* the cases relied upon by the panel.

Fourth, the panel's apparent singular focus on the areas where union members reside is not the most reliable criteria to determine the relevant geographic area for statistical purposes in all cases. Moreover, it may cause substantial confusion among the district courts in this Circuit.

Fifth, the overwhelming evidence, including all proof Local 15 was able to offer, and the district court's specific finding of Local 15's past and continuing discriminatory practices, compel the affirmance of Local 15's liability,

even in the absence of the statistically proven *prima facie* case. By reversing, the panel has turned the use of statistics on its head in Title VII cases. In the face of this record of actual discriminatory treatment of minorities, as strong as any other case brought by the Government in the Southern District of New York, the panel's decision was unwarranted and if left unchanged, will thwart the effective enforcement of Title VII in this Circuit.

Sixth, the remand of relief, at least as to the unions, which were fully heard on this matter below, was improper. Every aspect of the district court's affirmative relief was warranted by the full record before the district court and well within the discretion of district court. Each element thereof has been affirmed previously by this Court in cases involving no more proof than was before the Court here. If such relief can no longer be used on a record as strong as in the instant case, this Court has taken a significant step backward in providing effective affirmative relief in such cases. The panel's opinion is likely to have a substantial chilling effect on district courts throughout the Circuit.

Statement of the Case

a. District Court's Findings

After a trial in September, October and December, 1974, the Honorable Charles H. Tenney, in an opinion dated May 10, 1976, found that both defendant unions, Locals 14 and 15, International Union of Operating Engineers, had engaged in a pattern and practice of discrimination in training, recruiting, referring for work and admitting to membership minority workers. The

opinion is reported at 415 F. Supp. 1155 (S.D.N.Y. 1976). (JA I 70-127).*

The district court found that the statistical disparity between Local 14's and Local 15's minority union membership as of the trial date (2.8% and 6.5%, respectively) and the minority percentage of the relevant labor force in New York City (36.39%), where over 95% of the union members work, was sufficient to establish a *prima facie* case of discrimination. The district court also made sweeping and detailed findings of fact that in every major aspect of union affairs and practices, each union had discriminated against minority workers. The district court's findings of liability against Local 14 were affirmed. Summarized below are the district court's salient conclusions as to Local 15.

1. Union Membership Requirements

As to Local 15's admissions policies, Judge Tenney stated that the newly imposed practical test on at least three pieces of machinery was "a significant increase in Local 15's standards for admission," 415 F. Supp. at 1172, and not only does it "perpetuate the white union membership which exists because of prior discrimination, but also it *continues to be an active and contemporary example of unlawful adverse and disparate treatment of minorities.*" *Id.* at 1173 (emphasis added). Judge Tenney summarized his views on admissions by concluding that "the testing procedures are unlawful for the impact on minorities caused by their vague, inconsistent, subjective, and arbitrary application and administration. A test which is required of some, not of all; which relates to only a

* References to the parties' joint appendix are cited as "JA", followed by the volume number and page; references to the transcript are cited as "Tr."; references to plaintiff's exhibits are cited as "PX."

small portion of the relevant skills despite the applicant's knowledge of many others; which has no standards for measuring success; which is given by different people applying different rules; and the passing of which does not guarantee prompt union membership is an obstruction of equal employment opportunities without any relationship to business necessity. . . ." *Id.**

2. Union Referral Practices

In discussing Local 15's referral practices, Judge Tenney noted that "[t]here is no logical order of referral of workers, and no objective criteria for referral. . . . It appears that minorities are referred less frequently and wait far longer for job referrals no matter what the employment conditions are, and that union officials tend first to refer people known to them who usually are union men and therefore predominantly white." *Id.* at 1173-74. Local 15's "referral practices are illegal because they tend

* "Local 15 has no consistent and objective criteria for approving applicants for membership." Finding No. 33. (JA I 92).

"Local 15 has in the past heavily relied upon nepotistic and word-of-mouth recruitment for obtaining applicants. . . . This is still true, even as to minorities." Finding No. 34 (JA I 93).

"This [new practical test] is completely subjective, has never been validated as job related, and is not required by business necessity." . . . "There are no uniform and objective criteria for proficiency or skill used to determine a passing performance. . . ." Finding No. 36. (JA I 94).

"The admissions policies of Local 15 discriminate against minority persons." . . . "Today, minorities must meet a more restrictive entrance requirement than was required of the existing heavily white membership. Many new white members bypass the testing requirements. . . ." . . . "There is also evidence that minority applicants for membership are forced to wait longer than white applicants before they receive their union book. Local 15 has used the test, in certain instances, to disqualify or discourage qualified minority applicants who should have been admitted promptly after performing satisfactorily for an employer. . . ." Finding No. 37. (JA I 95).

to discriminate against minorities and perpetuate the effects of past discrimination." *Id.* at 1174.*

3. Local 15's Recruitment and Training Practices

Judge Tenney noted that "since training is a necessary prerequisite to jobs or job referrals and therefore to admission in Local 15, any discriminatory training practices operate to deny minorities equal jobs and admission to the Union." *Id.* at 1172. He pointed out that "[a] far greater percentage of whites continue to gain their training outside the school than is true for minorities. Furthermore, Local 15 has refused to recognize or accept without further training or testing minority graduates of other training programs, such as those operated by the Job Corps or by the military services." *Id.***

* "Work assignments are not customarily made on a first come, first served basis, but rather are made in the order in which an individual has signed the list." . . . "This system of giving work to union and nonunion men on the basis of subjective, discretionary decisions of business agents, unsupported by objective and fair tests or criteria, or even by personal observation with respect to the job skills in question, and often the result of ignorance or personal preference, operates to the disadvantage of minorities." Finding No. 31. (JA I 90-91).

** "However, since the school training requirement is imposed primarily upon minorities, it adversely affects their employment and membership opportunities. . . ." Finding No. 27. (JA I 88).

"Other training programs produce large numbers and percentages of minority graduates, yet Local 15 refuses to accept the experience and qualifications of these minority graduates. . . ." ". . . Local 15's refusal to accept their status and training, where less experienced and less or equally qualified white persons without such training are referred, and in fact even admitted to the Union, discriminates against such minorities." Finding No. 28. (JA I 88, 89).

4. Lack of Affirmative Action by Local 15

Judge Tenney noted that "Local 15 fails to accept, as it should, the blame for the New York Plan's limitations or discriminatory treatment by Local 15 of minorities who were supposed to be aided or for its almost total reliance on this inadequate, discriminatory plan for the training of minorities." *Id.* at 1176. Judge Tenney concluded that "[i]t therefore appears that whatever affirmative action Local 15 claims to have taken to counteract discriminatory practices was in itself discriminatory." *Id.* at 1177.*

b. Affirmative Relief Granted By the District Court

Judge Tenney entered a permanent injunction against future discrimination by all defendants and ordered an affirmative action program into effect, which was later amended on October 14, 1976. (JA I 239, 272). This program included a number of significant features, some of which were to last only for the temporary life of the decree:

1. A goal of 36% minority union membership by September 1, 1981, with interim goals.
2. Awards of back pay and other benefits to those minorities who could prove they were injured by

* "As a participant in the New York Plan [a local voluntary minority hiring program], Local 15 has provided unstructured and inadequate job assignments and training for minorities and has inhibited contractors from complying fully with equal employment contract requirements." Finding No. 48. (JA I 102).

"Local 15's practices regarding pay scale and union membership under the New York Plan have also discriminated against minorities." Finding No. 49. (JA I 103).

the unions' discriminatory practices, to be paid by the unions.

3. Limiting of union membership qualifications to objective and necessary requirements, including the proper validation of all tests, and establishing a fair procedure for the qualification of new members.
4. Combining of the unions' separate referral lists to one joint list, administered on a first in, first out basis for qualified applicants.
5. Proscription against employees seeking work directly from employers.
6. Adoption of an apprenticeship and a training program.
7. Advertising in minority communities.
8. Establishment of procedures and penalties for effective enforcement, implementation and administration of the Court's decree.
9. The appointment of a highly experienced and respected Administrator to oversee implementation of the Court's decree.

c. The Panel's Opinion

Despite these findings, the panel concluded that "[i]t is clear from the Judge's opinion that he relied on his prior finding of a prima facie case in deciding these issues [Local 15's practices] and placed the burden of justification upon the local." (Slip op. at 2488). The panel concluded further that since the district court erred in its statistical analysis with respect to Local 15, the finding of liability against Local 15 had to be reversed.*

* The finding of liability against Local 14 was affirmed by the panel.

This was premised on a two-pronged criticism of the district court's statistical method.

First, the panel stated that the relevant labor force was not limited to the geographic jurisdiction of Local 15, but included, to some unspecified extent, the areas where the union members lived. (Slip op. at 2485). While the work force in the former area is about 36% Black and Spanish, Local 15 asserted that the latter area work force is only 16.2% Black and Puerto Rican.*

Second, while accepting that the disparity between Local 15's 6.5% minority membership and 16.2% would still support an inference of discrimination (slip op. at 2485), the panel used an alleged post-Act minority admission rate of 20% to explain the disparity and negate the inference of discrimination. (Slip op. at 2486). This rate had been argued to the district court by Local 15, but it was never accepted. Based on the record, primarily Local 15's own membership lists (PXs 98 and 99), the post-Act minority rate is actually only 9.5%.** Moreover, the panel used the statistics to overcome sweeping and well-supported independent findings of discriminatory practices by Local 15.

As to relief, the panel concluded that the contractors associations, who had not participated in the trial on liability, but who did have an opportunity for oral argument and written submissions on the parties' proposed

* This was a methodology and statistic which Local 15 proposed for the first time on appeal. For some unexplained reason, the union failed to include non-Puerto Rican Spanish workers and failed to base its calculations on the correct educational level of the relevant work force.

** Since no material post-Act changes in admission were alleged by Local 14 and only 2.8% of its members were minorities, any error in choosing the proper geographical area was held harmless as against Local 14.

orders for relief, did not have an adequate opportunity to present their views on relief.*

The panel remanded to the district court to "conduct a full evidentiary hearing concerning the practices and procedures in the construction industry and the effect which his order will have, not only upon the defendant unions, but also upon the defendant contractors associations and their members." (Slip op. at 2492).

ARGUMENT

POINT I

The Statistics Which The Panel Used To Upset The District Court's Finding Of Liability Against Local 15 Were Materially Wrong.

A. The Panel Used A Post-Act Minority Admissions Rate Into Local Union 15 Of 20% When The Only Correct Figure Is 9.5%.

The panel accepted Local 15's assertion on appeal that since July 2, 1965, the effective date of the Civil Rights Act of 1964, (hereinafter "The Act"), "approximately 20% of its new members have been minority workers," (slip op. at 2486), and then used this post-Act figure as a key fact to negate the discrepancy between the percentage of minorities in the general work force (at least 16.2% by the union's calculation) and the 6.5% of the union which is minority. This assertion is contrary to the evidence. When the evidence is properly analyzed, the

* In fact only two of the associations appealed, and neither ever presented to the district court any recitation of what it intended to prove on relief and how it would do so.

true post-Act minority admissions rate is only about 9.5%. Therefore, even assuming that the minority percentage of the appropriate labor pool is 16.2% as asserted by the union (although this is a materially understated figure, *infra* at Point I, B), there is still a sufficient disparity between it and the true 9.5% post-Act figure to create an inference of discrimination.

Local 15 (App. Br. at 12)* obtained its 20% figure primarily by listing what it claimed were all admissions to the union from 1966 (the first full year after the effective date of the Act) through June, 1972, before the lawsuit was filed.** It then counted the number of minorities on the minority members list (PX 99) who were admitted during the same period and calculated the minority percentage of the allegedly "total" admissions. This was improper and misleading because the record shows that the number of total admissions used by the union (938) constitutes *less than one-half of the members actually admitted during this period*.

In its original brief Local 15 obtained the figure for total Local 15 admissions from a *proposed* pre-trial stipulation to which Local 15 never agreed. (JA I 66-69). As is apparent from the stipulation, there were no admission figures for branches 15B and 15D. This was so because these proposed stipulation's statistics were based upon the Government's analysis of union executive board minutes for branches 15, 15A and 15C *only* (PX 11A), and which, of course, reflect only the admission of new members to those branches, and not to Branches 15B and 15D. The Government included in its

* Appellate briefs are cited as "App. Br.".

** In terms of liability, post-Act statistics, if used at all, should be limited to that period of time before the filing of the instant lawsuit, since a union's temporary response to litigation should not be a defense to pre-suit conduct. See, e.g., *Jenkins v. United Gas Corp.*, 400 F.2d 28, 33 (5th Cir. 1968).

post-trial submissions an analysis of these minutes (see comment to proposed finding of fact no. 48; Record Item 90), but carefully omitted any reference to Branches 15B and 15D for which there were no comparable records.* Since the actual minority admissions for this period which Local 15 uses are taken from PX 99 which includes *all* branches of the union, but Local 15's total union figure (taken from PX 11A) does not, a comparison of the two totals materially overstates the minority percentage of the union.**

There is only one exhibit in evidence to which the minority admissions of PX 99 can be compared to obtain a minority percentage of total union admissions. This is PX 98 which is comparable to PX 99 but lists all union members as of August, 1972, by the date of their admission to the union. In other words, both of these exhibits show union members as of the date of the exhibit and list the initiation date of each member; one exhibit is for all members, the other is for minorities only. Examination of PX 98 shows that all branches of Local 15 had a total of 2023 members who actually had been admitted from January 1, 1966 through June 30, 1972.*** Examination of PX 99, dated July 5, 1974, shows that all branches of Local 15 had a total of 192 minority members

* Except for PX 98, there are no figures in the record for separate admissions for branches 15B and 15D for the post-Act period.

** Careful examination of the charts in the stipulation and proposed finding reveals that the totals listed there for new admissions (which Local 15 uses in its tables, App. Br. at 12) also include internal transfers from other Local 15 branches and therefore are not new admissions to Local 15. Perhaps it was for this reason that Judge Tenney did not accept this proposed finding. In any event, these figures were offered ultimately to show how easy it was for people to transfer into a branch of Local 15 from another branch or from another local and not how many really new admissions there were.

*** This also makes it clear that the admission data based on union executives board minutes is incomplete.

admitted during the same period. Therefore, the minority post-Act admissions constitute only 9.5% of the total admissions.*

In an exchange of post-argument letters to this Court, Local 15 suggested that any impropriety in using the table of admissions taken from the proposed stipulation, which was not in evidence, could be eliminated by using the yearly membership figures for Local 15 proposed by E.E.O.C. and adopted by Judge Tenney (Finding No. 18). However, this suggestion is conclusively refuted by PX 98. It incorrectly assumes that the difference between the figures for any two dates represents all new members admitted in that period. This is not true. For example, as of January 1, 1966, Local 15 had 4772 members and as of January 1, 1972, 5661 members. The difference, 889, does not equal all members admitted during this time because PX 98 shows about 2009 members were actually admitted during this time period. Obviously the difference between 2009 and 889 represent members who left the union or died during this time.** The figure 889

* The E.E.O.C.'s Petition for Rehearing, Attachment A, contains a table setting out fully the yearly admissions for Local 15 for this time period. The calculations above are based upon the original exhibit 98 admitted into evidence (see Motion of E.E.O.C. for Leave to Correct the Record on Appeal, dated April 25, 1977). The copy of PX 98 before this Court omits seven pages of Local 15B members. However, if the incomplete copy of PX 98 is used to calculate post-Act admissions, then, of course, the minority post-Act Local 15B admissions must not be used either. As E.E.O.C.'s table, Attachment B, shows, excluding 15B there were 157 minorities out of 1793 members admitted from January 1, 1966 through June 30, 1972. In other words, even using the copy of PX 98, there was a minority admissions rate of *only* 8.75%.

** The post-argument letters to the Court did not analyze PX 98; Local 15's letter suggested that the attrition rates for minorities and whites must be equal and therefore the annual membership figures are sufficient. PX 98 establishes that it is not sufficient to subtract one membership figure from another, and clearly shows that attrition rates are not similar.

merely represents the net change in total membership, not the actual admissions.

Therefore, PX 98, which is the only evidence in the record which is complete and comparable to PX 99, upon which Local 15 relies for its minority data, irrefutably establishes that at least 2023 men were admitted to Local 15 during the relevant time period before this lawsuit was filed, and not the 938 on which the panel premised its calculation of a 20% minority rate.* Accordingly, there is no basis to reverse the district court's finding of liability against Local 15.

B. The Union Understated The Minority Percentage Of The Work Force In The Area Where Union Members Reside as 16.2%, When The Actual Figure Is 24.1%. Accordingly, Any Error In The Choosing Of A Geographic Area By The District Court Was Harmless.

As set forth *infra* at 19, the Government believes that in this case it was error for the panel to select the relevant geographical area by focusing on where Local 15's members actually live. However, even assuming it

* The Government was entitled to rely initially in proving its *prima facie* case by statistics on the percentage of minorities in the union at the time of the lawsuit. If post-Act admission rates are to be used by the defendant union to explain this statistic, it is the union, which has greater access to and knowledge of such rates, which had the burden in the district court of proving such figures. In the instant case, aside from PX 98 there are no complete figures in the record, nor did the union offer any or provide the district court with any analysis other than the subtraction of membership figures from year to year. It is small wonder, then, that the district court did not and could not accept Local 15's assertion that its post-Act minority admission rate was 18%. (Local 15 D. Ct. Reply Brief at 6).

was correct to do so, the union miscalculated the minority percentage for this area. The correct percentage is 24.1%, and therefore, the error, by the district court, if any, was harmless.

For the first time on appeal, Local 15 asserted that minorities comprise 16.2% of the civilian work force members in areas in New York and New Jersey where Local 15 members live.* The panel assumed *arguendo* the accuracy of this figure, compared it to the incorrectly calculated post-Act minority admissions rate of 20%, and then reversed the finding of Local 15's liability, because the district court's error in choosing an area of relevant labor force could not be considered harmless as to Local 15. However, this assumption is faulty since Local 15 failed to include Spanish language work force members, failed to calculate a figure for the work force with the proper educational level, and failed to account for the exceptional undercounting of black workers by the census count. All of these procedures should have been followed, as they were by Judge Tenney, and by other judges in this Circuit, and approved by this Court. *E.E.O.C. v. Local 28*, 532 F.2d 821 (2d Cir. 1976); *Rios v. Enterprise Ass'n of Steamfitters Local 638*,

* It is possible to get a true perspective on the union's and the panel's use of union members' residence by understanding what geographic area the union has chosen to arrive at a 16.2% minority figure. The union figures (App. Br. at 16) are based upon the area known as "New York-Northeastern New Jersey." United States Department of Commerce, *General Social and Economics Characteristics, 1970 Census of Population—New York*, PX 1B, Table 85, p. 365. The New York portion consists of New York City and the Counties of Nassau, Rockland, Suffolk and Westchester (*Id.* at 277), while the New Jersey portion includes the SMSA's of Newark, Jersey City, and Paterson-Clifton-Passaic, and the Counties of Middlesex and Somerset (*Id.* at App. 4), or portions of New Jersey almost fifty miles from the closest tip of Manhattan.

501 F.2d 622 (2d Cir. 1974) ; *Patterson v. Newspaper and Mail Deliverers' Union*, 384 F. Supp. 585 (S.D.N.Y. 1974), *aff'd*, 514 F.2d 767 (2d Cir. 1975), *cert. denied*, *sub nom. Larkin v. Patterson*, 44 U.S.L.W. 3756 (June 30, 1976).

In the Appendix to this petition, the Government has set forth the complete minority work force calculations as they should have been done using the methods previously used in this Circuit and approved by this Court, based upon the same source of census data used by the union for its incomplete figures and using the union's own suggested geographic area. Although the instant suit was brought on behalf of Blacks and Spanish-surnamed workers, and although the figures for the Spanish workers were available in the same census tables used by Local 15, the union considered only Puerto Rican workers (App. Br. at 16). As the Appendix sets forth, this omits an additional 3.3% of the total civilian work force which is minority. (Compare the union's 16.2% to 19.54% from Table A(1)). Second, the union failed to consider that the district court found that the relevant work force for Local 15's jobs has always been that work force with a high school education or less, 415 F. Supp. at 1170, a standard adopted in other construction worker cases in this Circuit. Since minorities comprise a greater percentage of this work force than of that with some college education, this mistake by the union omits another 3-4% of the work force which is minority. (Compare 23.08% to 19.54%, both from Table A(1)). Finally another percentage point is omitted by failing to take into account the net effect of undercounting the total and the Black workers.

Since minorities actually comprise about 24.11% of the civilian work force even in the area suggested by

Local 15 (Table A(2)),* even when compared to the minority post-Act rates, *supra*, there was clearly a *prima facie* case, and therefore any error by the district court in choosing the geographical area was harmless.**

Since union membership figures are contained in the record before this Court, there is no need for further review by the district court. This correction alone requires that the finding of liability against Local 15 be reinstated. The minority work force statistics should also be decided by this Court. The district court's choice of a geographical area should not be disturbed if it can

* This figure is also conservative because it is based upon 1970 census data. Another Government publication, *Geographic Profile of Employment and Unemployment, 1973*, U.S. Department of Labor, Bureau of Labor Statistics, shows that the Black percentage actually increased from 1970 to 1973.

** Minorities are about 16.53% of the civilian work force in Northeastern New Jersey and about 27.22% of the work force in the New York nine county SMSA. Table A(2). These figures are also more consistent with minority figures approved in this Circuit for areas similar to that suggested by Local 15. For example, on remand in *Rios*, the district court found that the minority percentage for the area including New York City and Nassau and Suffolk counties was 26%-29%. 400 F. Supp. 983 (S.D.N.Y. 1975). In *Patterson v. Newspaper and Mail Deliverers' Union*, *supra*, this Circuit approved the use of a settlement figure of 25% for the New York-New Jersey area that was based on submissions to the district court showing that minorities comprise about 32% of the males in the labor force with a high school education or less and living in New York City and Nassau County. In *United States v. Local 638 Enterprise Ass'n*, . . . *Local 40*, 347 F. Supp. 169 (S.D.N.Y. 1972), Judge Gurfein, a member of this panel, concluded that the eight counties of New York City, Nassau, Suffolk and Westchester had a black and Puerto Rican population of 24% (adjusting this to include males in the work force with a high school education or less and to include all of the Spanish language males besides Puerto Ricans would raise Judge Gurfein's figures approximately 6%).

be readily shown that such error was harmless.* Since the relevant work force in the union's chosen area is 24.11%, any error by the district court in choosing a geographic area was harmless.**

In view of the above, it is only fair and appropriate for this Court to reach the issue of liability as it did with Local 14. A remand on liability will only mean further needless delay. If the unions were liable, then the Government, just as much as the appellees, is entitled to have this Court determine whether the district court was within its discretion in ordering the relief it did.

C. The District Court's Choice of New York City As The Correct Geographic Area For The Relevant Labor Force Was Consistent With Previous Divisions Of This Court And Cases Relied On By The Panel. The Panel's Use of Union Members' Residence As The Singular Basis For Determining The Relevant Geographic Area Was Inappropriate.

Since there is a strong *prima facie* case of discrimination even if the geographical area most favorable to defendant Local 15 is used, there is no need for this Court to consider in this case the question of which geographical area should have been used. Even so, the

* In sustaining Local 14's liability, the panel accepted this proposition.

** The data supporting these conclusions comes from census publications and has been analyzed in the Appendix to this petition by methods previously approved by this Court. As Local 15 itself argued (App. Br. at 3 n.2), "[t]he Court can obviously take judicial notice of this [census] document. . . ." The Government agrees, see *United States v. United Bro. of Carpenters & J.*, Local 169, 457 F.2d 210, 214 n.7 (7th Cir. 1972), and respectfully suggests there is no reason to remand to the district court for the reconsideration of the question of liability.

district court's use of New York City as the relevant geographic area was consistent with *Rios v. Enterprise Ass'n of Steamfitters Local 638*, *supra*, other Second Circuit cases and the cases relied upon by the panel. Moreover, the panel's apparent singular focus on the areas where union members reside is not the most reliable criteria for choosing the geographic area and may lead to results which will not serve the purposes underlying Title VII.* Therefore, it is important that this Court, at a minimum, modify the panel's language in this area.

There is virtual unanimity in the cases that the showing of a statistical disparity between the proportion of minority employees in a union's work force and the proportion of the same minorities in the relevant labor market is sufficient to establish a *prima facie* case of discriminatory employment practices. The relevant labor market is, of course, that area from which an employer or union would draw its members in the absence of dis-

* At the trial, neither union offered any statistical evidence to refute the offer by the Government. Moreover, the panel's theory of looking to the members' residence for the relevant labor pool was never even suggested to the district court. Local 15 never suggested that the places its members lived were relevant. It is raised for the first time on appeal. In fact, Local 15's proposed order for relief *limited membership* to persons residing in New York City or the counties of Westchester, Nassau or Suffolk for 12 months prior to application. At the trial, Local 15's only complaint with the geographical area proposed by the Government was that it allegedly did not include all the areas where its members work (D. Ct. Br. at 4-5). Even as to its proposed geographical area, the union never analyzed the appropriate census data to suggest the "correct" minority figure for the trial court.

At no time in the trial court did Local 14 challenge the 36% minority figure proposed by the Government based upon a New York City work jurisdiction or the use of this figure on the question of liability. In fact, Local 14's proposed order for relief accepted 36% as a proper minority membership goal (¶ 5).

crimination. See *Rios v. Enterprise Ass'n of Steamfitters Local 638*, *supra*, 501 F.2d at 632-633. The question is how, in a particular case, to choose the correct geographic area.*

At least where other reliable data is available, it may seriously under-represent the actual percentage of minorities in the area from which an employer or union would draw its members, *absent discrimination*, to heavily or exclusively rely on where union members actually reside at the time of the suit. Such reliance can result, in effect, in rewarding a union's discriminatory policies. The location of union members in mostly white suburban areas may be heavily dependent on discriminatory practices of the union which tended to favor whites, who are more likely to live in these areas. But for the discrimination, more minorities would have obtained union membership and a much smaller percentage of union members would live in mostly white suburbs.**

The residence of union members after they joined the union is particularly inappropriate. White union members may have lived in New York City when they first joined the union, and then, having attained sufficient economic benefits from membership in a discriminatory union, may have moved to mostly white suburbs.

* In addition to choosing the area, it may be appropriate on some factual records to give weight in proportion to the share that that area contributes to the relevant work force. See, e.g., *Patterson v. Newspaper and Mail Deliverers' Union*, *supra*, where the district court accepted a more sophisticated approach.

** Using one interpretation of the panel's approach would mean that if a company or a union exists in an area which is 90% minority, and intentionally or otherwise recruits (or presently has) only white workers who live in all white suburbs, for purposes of using statistics to prove a *prima facie* case there would be no evidence of discrimination. The same would be true for a plant located on the border of a heavily minority central city, but recruiting only from suburbs.

In the instant case, for example, it would be easy to determine the geographic location from which Local 15 could draw employees to work on its jobs in New York City * without relying on the potentially biased data of where Local 15's members reside. The district court found that the eligible work force for Local 15's jobs was made up of all males with a high school education or less. As the E.E.O.C. petition points out (p. 11 and Attachment C), 86.3% of such persons (male and female) who work in New York City actually live in New York City. Therefore, the district court's reliance upon New York City statistics in determining liability was appropriate, because such statistics reflect where the overwhelming majority of the eligible labor force could be drawn from. See *Rios v. Enterprise Ass'n of Steamfitters Local 638*, *supra*. At most, the New York S.M.S.A. is the correct area, since about 95% of workers in that area with a high school education or less also live in that area. See E.E.O.C. Petition, Attachment C. Even if this broad area (in 1970 consisting of nine counties) is used, the

* Local 15's suggestion that work outside New York City should require that the entire New York SMSA was the appropriate geographic reference point was properly rejected by the district court, because only about 200 jobs, or less than 4% of the membership, could be identified as existing outside New York City. 415 F. Supp. at 1160 and n.5, and 1171 n.13.

The unions' principal officers consider the unions to be New York City Locals and they were so chartered. (Tr. 25). The International Constitution requires that the branches' territorial jurisdiction not exceed the parent local. (PX 50, Art. XIV, at 40-41). Local 15C's business agent stated that only 170-180 of his 1491 members worked outside New York City but these men had followed their jobs when their employers relocated certain shops outside the City. (Tr. 374). Local 15D's business agent could not specify where or how many of his men worked outside the City. (Tr. 372-73). Moreover, all 15D collective bargaining agreements limit 15D's jurisdiction to New York City. (See, e.g., PX 54 F at 4; 58 A at 3).

minority share of the eligible labor force is more than 27%. See Appendix, A-5. The New York-North Eastern New Jersey Standard Consolidated Area which includes areas almost fifty miles from the closest tip of Manhattan is, in any event, too broad.

The panel's reliance on *United States v. Hazelwood School District*, 534 F.2d 805 (8th Cir. 1976), *cert. granted*, 45 U.S.L.W. 3454 (Jan. 10, 1977), is misplaced, because that decision, in principle, is in accord with *Rios* and the decision of the district court. In *Hazelwood*, the district court had ruled that there was no *prima facie* case of discrimination against blacks in faculty hiring, because while the faculty was less than 2% black, less than 2% of the children in the school district were black. The Court of Appeals reversed, holding that the level of black student enrollment was irrelevant and the relevant consideration for a *prima facie* showing was the disparity "between the proportion of blacks in the employer's work force and the proportion of blacks in the labor market." 534 F.2d at 811-812.

The record in *Hazelwood* shows the Hazelwood school district was a small area within St. Louis County and that 80% of the teachers hired by the Hazelwood School District resided in St. Louis City and County at the time of their initial employment, and 73% resided in the County or the City, other than in Hazelwood. 534 F.2d at 811-812 n.7. Only 7% of the work force, therefore, was drawn from the Hazelwood district itself. *Id.* For these reasons, the Eighth Circuit agreed with the Government's contentions that St. Louis City and County was the relevant labor market area for determination of liability. *Id.* It was unnecessary to look beyond the area from which 80% of the employees were recruited. Moreover, in *Hazelwood*,

* In *Hazelwood* teachers were also recruited and hired from many areas beyond St. Louis City and County.

as was done by the district court herein, the court used a criteria much more reliable and reasonable than where employees currently resided, namely the natural recruitment area, based in that case on the residence as noted on the actual applications,* not where the teachers already hired lived. It is just as reliable, if not more so in certain cases, to use as the criteria the natural area from which eligible workers would likely come. Since here over 80% of the workers eligible for recruitment live in New York City, the district court's use of New York City statistics was correct.

This methodology is similar to the approaches used by the Second Circuit in other cases. In *Rios*, there was no examination of the number of union members living outside the union's seven county geographic jurisdiction, for example, in Rockland County, Westchester County or New Jersey, all of which Local 15 seeks to use. Accordingly, it is impossible to distinguish *Rios* on the ground that Local 638 drew its membership, "almost entirely" from within its geographic jurisdiction. Similarly, in *E.E.O.C. v. Local 28*, *supra*, this Court upheld a 29% goal for the sheet metal workers' union which had a geographic jurisdiction of New York City. There simply was no discussion of where the members lived.**

* We do not believe that adequate records exist in this case as to the residence of union members at the time they first entered the union, and therefore it would be necessary to take evidence from or concerning each member's residential history. In the instant case, it may be inherently unfair to examine the applications even if they existed, because applications from New York City minority residents may have been diminished as a result of a general belief that jobs to minorities were unavailable in this industry.

** Moreover, the cases relied upon by the panel in fact are consistent with the Government's methodology outlined above. In *United States v. Int'l Union of Elevator Constructors, Local 5*, 538

[Footnote continued on following page]

It is respectfully submitted that the inconsistency between the panel's decision and other decisions of this and other circuits will cause substantial confusion among the district courts. Therefore, we urge this Court to modify the panel's opinion to make clear that union members' present residence may not be the most appropriate criteria to determine the relevant geographic area for statistical purposes in every case.

POINT II

The Government's Sustained Its Burden Of Proof Irrespective Of The Statistics.

The panel's decision to reverse Judge Tenney's finding of liability against Local 15 and remand for further statistical findings or other additional proof is based upon the erroneous premise that "[i]t is clear from the Judge's opinion that he relied on his prior finding of a prima facie case [based on statistics] in deciding these issues [the union's practices] and placed the burden of justification upon the local." (Slip op. at 2488). This

F.2d 1012 (3d Cir. 1976), *aff'g* 398 F. Supp. 1237 (E.D. Pa. 1975), the Court upheld a 23% minority goal when the union's extensive geographic jurisdiction was only 15% minority, relying, it appears, upon the fact that the district court found that most of the jobs were in smaller areas within the union's jurisdiction and these areas had heavier concentrations of minorities. The location of where members live was not in issue. Similarly, the Ninth Circuit, in *United States v. Ironworkers Local 86*, 443 F.2d 544 (9th Cir.), *cert. denied*, 406 U.S. 950 (1972), held it proper to use statistics for the city of Seattle and not the larger area of the union's jurisdiction, because the City had the single largest population within the union's jurisdiction and it "is that area from which they would most likely draw the vast majority of workers . . ." 443 F.2d at 551 n.19.

premise is incorrect and ignores the obvious fact that statistics are not the only way to establish a case of discrimination. Judge Tenney's findings of discrimination did not rely on the statistical proof in any way, but rather provided an independent basis for deciding that the Government had proved by a preponderance of the evidence that Local 15 discriminated against minorities. See, *United States v. Ironworkers Local 86, supra*.

The Government tried this case by first introducing the relevant labor force and union membership statistics and then setting out to prove that the actual practices of both unions with respect to training, recruiting, referral and admissions were discriminatory. While the district court first concluded that the disparity between minorities in the relevant labor force and the union was sufficient to establish a *prima facie* case, it also made a separate and detailed examination of each of Local 15's practices and concluded in separate findings and a separate discussion that each of these practices in fact discriminated against minorities. The facts supporting these findings speak for themselves and in no way are they or the Judge's findings related to or dependent upon the statistical imbalance.

If anything is "clear" from Judge Tenney's opinion it is that he found that Local 15 actually treated minorities differently from whites to the disadvantage of minorities, and that Local 15 used practices which had an adverse impact on minorities. Statistics, after all, can only shift the burden of proof. There is no basis for concluding that Judge Tenney's findings that minorities were treated differently from whites depended in any way upon the statistical imbalance or the unions' failure to meet a burden of proof. Moreover, many of these findings have

no logical relationship at all to the union's membership statistics.*

Judge Tenney's findings were overwhelmingly supported by the record. The Government submitted to the district court a list of seventy lengthy findings of fact, each carefully annotated (for 128 pages) to the exhibits in the record and the testimony at trial (Record Item No. 90). While Local 15 on appeal attacked Judge Tenney's findings as unsupported or refuted by portions of the record carefully selected by Local 15, examination of the annotated proposed findings reveals that the attack is without merit.**

* One of the most important findings concerned discriminatory referral practices. Referral practices have no necessary or logical connection to membership figures. A union can admit minorities until they comprise 50% of the union, and nevertheless, if the union refers the minority members and white members on unequal terms, such practices are illegal. In the instant case, Judge Tenney found that the lack of objective criteria or a logical order for job referrals operated to the disadvantage of minorities. *Supra* at 6. Whatever the statistics show, they have no bearing on that conclusion, the union's liability therefore and the need for immediate and appropriate relief.

The same is true of Judge Tenney's findings concerning Local 15's unnecessary and unequal training policies which made it more difficult for minorities to get job referrals and union membership; and Local 15's new, unvalidated, vague, inconsistently and subjectively applied admission tests which were not previously required of whites and were still frequently by-passed by whites, to the disadvantage of minorities.

** Local 15's appellate brief contended that Judge Tenney merely rubber-stamped the views of the Government because he adopted many of the Government's proposed findings of fact and most, important aspects of the Government's proposed order for relief. To put it mildly, this attack on an experienced and careful district judge which suggests he failed to perform his responsibilities faithfully is misplaced. On the contrary, Judge Tenney gave lengthy consideration to the record and the parties' briefs, and wrote a lengthy and careful opinion giving full consideration to all points raised. His acceptance of the Government's position (although not all of its proposed findings) and most of its proposed order for relief are totally supported by the record.

Simply put, Judge Tenney's findings of discrimination did not depend upon the statistical balance or a shifting of the burden of proof to the union. Both sides proved everything they could about the industry and the union's practices. Whatever the burden of proof was, it was met by the Government. It was error for the panel to simply ignore all of these findings and the lengthy supporting record and use statistics to refute them and the judgment of liability.

POINT III

The Remand Of The Entire Relief Granted By The District Court, If Warranted At All, Was Far Too Broad And Should Have Been Limited To Only Those Provisions Relating To Or Affecting Directly The Contractors Associations.

The panel did not review the propriety of the relief ordered in view of the facts before the district court, but rather remanded all the relief for a further evidentiary hearing. At a minimum this remand was too broad with respect to the great majority of relief ordered which only affected the defendant unions. This relief is totally separable from that relief which affects the contractors associations and which they may have standing to challenge. Whatever remand may be necessary to protect the interests of the associations, no remand is proper with respect to the unions.

A. Remand As to The Unions Was Improper.

At the trial on liability which lasted seventeen days, Judge Tenney heard extensive proof about all aspects of the union and employer practices in the construction industry from both the unions and the Government.

Every conceivable issue, at least in so far as it affected the unions, was fully aired. In fact, Judge Tenney was in a particularly unique position to judge the unions and their capabilities because the Government proved a major part of its case by calling as its witnesses many of the officers of Locals 14 and 15.* On May 10, 1976, Judge Tenney filed his opinion and *ten weeks later*, after ample notice to all parties, Judge Tenney held a hearing to consider the proposed orders of the Government, the unions and the General Contractor's Association (JA I 128-203). No other party submitted a proposed order. One of the appellants, Allied Building Metal Industries, Inc. did not even bother to appear at the hearing or otherwise communicate with the district court before the other was signed.

At the hearing, Judge Tenney exhaustively reviewed with the parties the Government's proposed order which was by far "the most comprehensive order" (JA I 130). Each party presented all its arguments against that order and at the conclusion of the hearing Judge Tenney told the defendants "if you would direct yourself to what you find to be extremely objectionable or unworkable or the like in the Government's proposed order and if you could put it in writing and send it to me, I will give it my serious consideration." (JA I 201-02). At no time during the hearing did the unions request a factual hearing of any kind nor did they make an offer of proof on any issue before the court.** There-

* The Government also called as witnesses a number of employers to testify about their practices.

** Local 14 merely suggested leaving open a number of items which could be addressed later by "suggestions by the neutral competent experts" (JA I 145-46); and that an order like the Government's should not be signed "without any input from conferences, parties attempting to work out a solution, suggestions from people who have been involved in these things before. . . ." (JA. I 147).

after, the parties exchanged letters to Judge Tenney expressing their position in detail on various aspects of the proposed relief (JA I 204-328), but again the union made no request for further hearings.

On September 1, 1976, Judge Tenney signed and had entered a final Order and Judgment. (JA I 239, hereinafter referred to by the paragraph of that order).^{*} That order made clear that Judge Tenney retained jurisdiction over the case (§ 61) and in fact on October 14, 1976, he modified the order to allow interested persons, like employers, to request that job categories be added to the referral hall practices. (JA I 272). In short, at no time did the unions ask Judge Tenney for an evidentiary hearing on relief, nor have they, even on appeal, ever delineated what they would show at such a hearing that is relevant to relief which was not fully covered at the trial on liability or the subsequent hearing. The unions, at least, were not entitled to any further opportunities below to be heard. *United States v. Wood, Wire & Metal Lathers, Local 46*, 341 F. Supp. 694 (S.D.N.Y. 1972), *aff'd*, 471 F.2d 408 (2d Cir.), *cert. denied*, 412 U.S. 939 (1973). To remand the relief ordered against them, especially under the vague order of the panel which totally fails to set forth the relevant

^{*} Contrary to Local 15's suggestion on appeal, while Judge Tenney accepted many of the Government's positions, he nonetheless did make significant changes *sua sponte* or in response to points raised by the defendants. For example, the definition of pensioners to be included in the admission goals was modified to include only those recently working (§ 6c), as Judge Werker had done in *E.E.O.C. v. Local 28*, *supra*; the length of time on a job to gain union membership was increased to fifteen days (§§ 15a, 16); he accepted Local 14's proposal to add a number of specific job categories for referral procedures (§ 32(a)(7)) and provided for future expansion of the job categories (§ 32(b)); he eliminated provisions for suburban jobs (§§ 33, 35(b)) and the requirement of each union training 100 minorities each year (§§ 43, 44(b)).

factors for consideration, is unfair to the minorities and violative of the principle that parties must raise their issues in the trial court first.*

On appeal, the contractors associations essentially object to the requirement that all union members must get their work directly through the hiring hall; that is, that there be an exclusive hiring hall. (§§ 30, 31). In addition to a permanent injunction against future acts of discrimination, there are a few minor provisions of the Order which also affect the contractors,** but most do not.

The unions have always maintained a hiring hall used by employers and a significant number of employees. Besides indirectly requiring the employers to use the hiring hall exclusively, the order insures that men will

* The unions can, of course, at any time ask the district court to modify the order and present evidence to the court on such a request. See §§ 60 and 61. The district court has specifically reserved jurisdiction over its decree to ensure its effectiveness and fairness. Also, the Administrator is empowered to review problems that may arise with the decree (see e.g. §§ 8, 9(a) and 60) and suggest modifications that may be appropriate. Any modification of the decree should be left to the district court in the first instance. Having familiarized himself completely with the unions and having observed the testimony at trial, the district judge would have the "keenest appreciation of those facts and circumstances peculiar to the particular [case]." *Albermarle Paper Co. v. Moody*, 422 U.S. 405, 422-23 (1975).

** These provisions relate to keeping records (§ 8(c)); providing requesting employees a certification for work they perform (§ 20); not requesting from the unions specific individuals (§ 34(b)); steps to distribute overtime equally to employees in the same job category (§ 36); reviewing the contractors' records to uncover violations of hiring hall and employment practices (§ 39(b)); a future plan providing supplementary on-the-job training for non-whites (§ 44(a)); compensating a worker injured because of a violation of the decree (§ 55); and posting notices and keeping copies of the decree (§ 56).

be referred, if they are qualified, from a list maintained by the unions, on a first-in, first out basis which is fair to all.* Even Local 15's proposed order (§ 7) similarly provided that work should be assigned from the hall to qualified men on the basis of "time unemployed while using the facilities of the referral hall."

Therefore, if a remand is necessary as to the contractors associations on the questions of the exclusivity of the referral hall, only that part of the order which imposes and implements an *exclusive* hiring hall should be severed and remanded for further review.** All aspects of the order affecting the unions, including all other aspects of the hiring hall procedures imposed on the unions, should be considered by this court and affirmed without further delay. There is simply no reasons by the contractors' position should operate to delay the entire order. Given the fact that the construction season is here or rapidly approaching, and minorities have waited so long for fair referral practices as well as other relief, any further delay may be catastrophic to their chances of working this year.

* The district court was obviously concerned about safety as well. (JA. I 176 and 190). To that end, provisions were embodied in the Order, for example, permitting the unions to first pass upon an individuals' job qualifications, subject to review by the Administrator, and to suggest appropriate tests, approved by the Administrator, where there was doubt. (§§ 32, 46). Additionally, employers are entitled to layoff workmen who cannot perform their jobs safely (§ 38), as has always been the case in the industry. Therefore apart from exclusivity, none of the changes imposed on the hiring shall adversely affect the contractors.

** §§ 30 (portions); 31; 35(b)(6); 37.

B. The Relief Ordered Against The Unions Was Justified And Mandated By Title VII, And The Record Below Was More Than Sufficient.

Since the judgment of liability against the unions must be affirmed, *supra*, and since the unions had a full opportunity below to be heard as to relief, this court is obligated to decide, and the Government is entitled to have decided now, the issues of relief.

On records strikingly similar to the one herein, this Court has explicitly sanctioned the very forms of relief imposed in this case. See e.g. *E.E.O.C. v. Local 28*, *supra*; *Rios v. Enterprise Ass'n of Steamfitters, Local 638*, *supra*; see also *Patterson v. Newspaper and Mail Deliverers' Union*, *supra*.

As this Court has affirmed time and again:

"the objective of Title VII is to 'attack the scourge of racial discrimination' which has 'caused manifold economic injuries, rates of unemployment and privation among racial minority groups.' *United States v. Wood, Wire & Metal Lathers Intl. Union*, 341 F. Supp. 694, 699 (S.D.N.Y. 1972), *aff'd*, 471 F.2d 408 (2d Cir.), *cert. denied*, 412 U.S. 939 (1973)." *Patterson v. Newspaper & Mail Deliverers' Union*, *supra*, 514 F.2d at 771-72.

To achieve this statutory mandate, district courts have been given broad equitable power to choose appropriate remedies once discrimination has been proved. *Franks v. Bowman Transportation Co.*, 424 U.S. 747, 763-64 (1976); *Rios v. Enterprise Ass'n of Steamfitters of Local 638*, *supra*, 501 F.2d at 629. In that context, the familiar terms "complete justice" and "necessary relief" applied to the granting of equitable remedies have acquired clear meaning according to the Supreme Court: "Where racial

discrimination is concerned, 'he [district] court has not merely the power but the *duty* to render a decree which will *so far as possible* eliminate the discriminatory effects of the past as well as bar like discrimination in the future.' *Louisiana v. United States*, 380 U.S. 145, 154 (1965)" (emphasis added) *Albermarle Paper Co. v. Moody*, *supra*, 422 U.S. at 418.

Appropriate relief can be denied or, accordingly, reversed on appeal "'only for reasons which, if applied generally, would not frustrate the central statutory purposes of eradicating discrimination throughout the economy and making persons whole for injuries suffered through past discrimination.'" *Franks v. Bowman Transportation Co.*, *supra*, 424 U.S. 770, citing to *Albermarle* at 421 (emphasis added). In sum, the discretionary powers vested in the district courts were designed to "make possible the fashioning of the *most complete relief possible*." *Albermarle*, *supra*, 422 U.S. at 421 (emphasis added). See also *Morrow v. Crisler*, 491 F.2d 1053 (5th Cir.) (*in banc*), *cert. denied*, 419 U.S. 859 (1974) (Court found that the district court should have ordered more affirmative relief); *Bowe v. Colgate-Palmolive Company*, 416 F.2d 711, 721 (7th Cir. 1969) (where discrimination was proved in a Title VII class action, "The full remedial powers of the court *must* be brought to bear and *all* appropriate relief given.") (emphasis added). That is what Judge Tenney did here and in each instance the relief was completely justified. In remanding the question of relief so that the district judge "may conduct a full evidentiary hearing concerning the practices and procedures in the construction industry" (slip op. at 2492), the panel did not give proper consideration to the extensive trial record at least as to the unions.

There was extensive proof in the record to justify the imposition of at least those remedies solely applicable to the unions, proof which was more than adequate in other Second Circuit cases to sanction such relief.

These cases were followed by Judge Tenney here. For example, to remedy the long-continued, deeply engrained past and on-going discrimination—well-proven at trial (*supra* Point II)—a remedial minority membership goal was ordered, as was done in the *Local 28* case, 532 F.2d at 830, and in *Rios*.^{*} In view of the continuing discriminatory actions of the unions, well past the effective date of Title VII, their sheer size and the myriad of tasks that must be assured throughout the period of the affirmative action program, and the need to not return to the court at every minor juncture, the appointment of an administrator, as in *Rios* and *Local 28*, was also warranted.^{**} Back pay was also justified for those discriminated against by the Unions; in view of the proof offered at trial it was required under *Albermarle*, *supra*. The formula used here was almost identical to that approved by this Court in *Local 28*.

Obviously a requirement that admissions criteria be fair, objective, not unnecessarily onerous and job validated is appropriate, and the training and recruitment requirements are also well within a court's normal dis-

^{*} This "goal" indeed was not a hiring quota and its imposition was justified even under the two pronged test mandated by *Kirkland v. New York State Department of Correctional Services*, 520 F.2d 420 (2d Cir. 1975), *rehearing denied*, 531 F.2d 5 (1975), *cert. denied*, 45 U.S.L.W. 3249 (Oct. 5, 1976) (i.e. "clear-cut pattern of long-continued and egregious racial discrimination" and no impact on a small "identifiable" group of non-minorities). Furthermore the method used for setting it at 36% was similar to that used in *Rios* and *Local 28*, see Point I, *supra*; and in any event if it is to be modified it should be done in a manner that is more equitable than using as the relevant geographical reference the location where members live. See Point I, *supra*.

^{**} The unions made much to do about the expense of an administrator. However, if they comply with the order, after an initial period, he will not have to spend much time. Given a combined union membership of over 7500, even a full time Administrator could be paid by insignificant yearly assessments against each member.

cretion in a case like this. Finally, and perhaps most importantly are the changes in the hiring hall procedures and criteria. It is almost self-evident that such changes are necessary and appropriate in light of Judge Tenney's findings on referral practices. The hiring hall program approved here, without the exclusivity provisions, is similar to that approved by Judge Frankel and this Court in *United States v. Wood, Wire & Metal Lathers, Local 46, supra*.

All of these provisions have no impact on the contractors. To delay the implementation of this relief further under the guise of additional hearings on the "practices and procedures of the construction industry" generally would frustrate "complete justice" and deny to many the "most complete relief [that may be] possible." If *all* the relief granted by Judge Tenney in this Court's judgment is not yet warranted,* there is at least no reason to delay that which is. The *speedy* grant of warranted relief is one of the essential purposes of Title VII, as evidenced by that provision of Title VII requiring expedition of these cases, 42 U.S.C. § 2000e-6(b). To delay further the relief that may be warranted is to deny those deserving people at least a portion of their justice. Indeed, if such relief is not affirmed, this Court would not be fulfilling its "*duty* to render a decree which will *so far as possible* eliminate the discriminatory effects of the past as well as bar like discrimination in the future." *Albermarle, supra*, 422 U.S. at 418 (emphasis added).

* The Government submits that the contractors were given every opportunity to present their views on pertinent facts with respect to relief, and that no remand is necessary for them either. If rehearing or rehearing *in banc* is granted, we will gladly brief more fully the reasons why relief against the contractor associations was entirely proper.

In sum, Judge Tenney had considerably more than "some evidence" (slip op. at 2490) before him to justify the relief that he ordered. As we have shown the record clearly was not "incomplete" (slip op. at 2491), at least as to the unions.

CONCLUSION

The judgment of liability against Local 15 and the district court's order of relief should be affirmed. A remand, if any, should be limited to only those portions of the district court's order which directly affect the contractors associations.

Respectfully submitted,

ROBERT B. FISKE, JR.,
*United States Attorney for the
Southern District of New York,
Attorney for the United States
of America.*

MICHAEL S. DEVORKIN,
DENNISON YOUNG, JR.,
*Assistant United States Attorneys,
Of Counsel.*

APPENDIX

A-1

Appendix

Tables A(1) and A(2)

The minority civilian work force percentages for the areas where Local 15 alleges its members live are set forth in the following Tables A(1) and A(2). The basis for the Table A(1) figures is the calculations and supporting data set forth in the following Tables B(1), B(2), and C. The source of original data is indicated in the table (e.g., as Table 119). This source is the pertinent part of tables in the United States Department of Commerce publication *General Social and Economic Characteristics, 1970 Census of Population, New York*. Copies of the pertinent parts of these tables are included in this appendix.

Table A(2) corrects the Table A(1) figures on the basis Bureau of Census data on population undercounting found in United States Department of Commerce, *Estimates of Coverage of Population of Sex, Race, and Age; Demographic Analysis*, Table 3, at p. 29. (PX 3). Such data shows that the census undercounts the total male labor force and the Black male labor force by different amounts.

The census tables for New York do not reflect data precisely for Spanish Surnamed Americans. The tables' best approximation for persons in these areas who are of Spanish origin, or identified as such, is the data listed for Spanish language persons, which is defined in Appendix B in the above publication. (JA II 31). However, not every table of social or economic characteristics provides information for Spanish language persons, and therefore some conversions must be made.

Tables B(1), B(2) and B(3)

Table B(1) computes the total civilian male labor force with a high school education or less. First, the percentages of the male *population* 25 years old and over with a high school education or less is computed. Then, assuming this percentage is approximately the same for the civilian male *labor force*, it is multiplied times the total civilian male labor force to determine the civilian male labor force with a high school education or less.

Table B(2) computes the total black civilian male labor force with a high school education or less. First, the percentage of the black male *population* 25 years old and over with a high school education or less is computed. Then, assuming this percentage is approximately the same for the black civilian male *labor force*, it is multiplied times the total black civilian male labor force to determine the black civilian male labor force with a high school education or less. The black male civilian labor force as a percentage of the total male civilian labor force, without respect to education, is also shown.

Table B(3) computes the total Spanish language civilian male labor force with a high school education or less. First, the percentage of the *Puerto Rican male population* 25 years old and over with a high school education or less is computed. Then it is assumed this percentage is approximately the same for the *Spanish language male population* 25 years old and over a high school education or less. Finally, assuming this percentage is approximately the same for the *Spanish language civilian male labor force*, it is multiplied times the total Spanish language civilian male labor force (from Table C) to determine the Spanish language civilian male labor force with a high school education or less. The

A-3

Spanish language civilian male labor force as a percentage of the total civilian male labor force, without respect to education, is also shown.

Table C

This table computes the approximate number of Spanish language males 16 years or older in the civilian labor force. It is done by assuming that the ratio of Spanish language males in the civilian labor force to Puerto Rican males in the civilian labor force in the same ratio as the Spanish language population is to the Puerto Rican population. Table C is then used in Table B(3).

TABLE A(1)

State	Total Males in Civilian Labor Force 16 Years Old and Over Who Have a High School Education or Less (Table B(1))	Black Males in Civilian Labor Force 16 Years Old and Over Who Have A High School Education or Less (Table B(2))	Spanish-Language Males in Civilian Labor Force 16 Years Old And Over Who Have A High School Education Or Less (Table B(3))	Total Minority Percentage
New Jersey	897,073	95,667	45,568	15.74% of N.J.
New York	2,136,034	332,192	226,510	26.15% of N.Y.
TOTAL	<u>3,033,107</u>	<u>427,859</u>	<u>272,078</u>	
% minorities of total civilian labor force 16 or over with high school education or less		14.11%	8.97%	23.08% of Total Area Civilian Work Force with a high school education or less
% minority of total civilian male labor force without respect to education		Black % (Table B(2))	Spanish Language % Table B(3)	
New Jersey		8.72% of N.J.	4.44% of N.J.	13.16% of N.J.
New York		13.01% of N.Y.	9.23% of N.Y.	22.24% of N.Y.
TOTAL		<u>11.73%</u>	<u>7.81%</u>	<u>19.54%</u> of Total Area Civilian Work force

TABLE A(2)

Corrected Civilian Labor Force Figures Based Upon Census Undercount Percentages

State	Total Males In Civilian Labor Force 16 Or Over With A High School Ed. Or Less (Table A(1))	Undercount Fraction All Males*	Black Males In Civilian Labor Force 16 Or Over With A High School Ed. Or Less (Table A(1))	Undercount Fraction For Blacks*	Corrected Total Col. 1 ÷ (1-Col. 2)**	Corrected Black Total Col. 3 ÷ (1-Col. 4)	Corrected Black Percentage (Col. 6 ÷ Col. 5)	Spanish Language % (Table A(1))***	Corrected Minority Percentage Of Total Male Civilian Labor Force 16 Or Over With A High School Ed. Or Less (Col. 7 + Col. 8)
New Jersey	897,073	.033	95,667	.099	927,687	106,179	11.45% of N.J.	5.08	16.53
New York	2,136,034	.033	332,192	.099	2,208,828	368,692	16.69% of N.Y.	10.60	27.22
TOTAL	3,032,107	.033	427,859	.099	3,136,615	474,871	15.14% of Total	8.97	24.11

	Total Males In Civilian Labor Force 16 Or Over (Table B(1))	Undercount Fraction All Males*	Black Males In Civilian Labor Force 16 Or Over (Table B(2))	Undercount Fraction For Blacks*	Corrected Total Col. 1 ÷ (1-Col. 2)**	Corrected Black Total Col. 3 ÷ (1-Col. 4)	Corrected Black Percentage (Col. 6 ÷ Col. 5)	Spanish Language % (Table B(3))***	Corrected Minority Percentage Of Total Male Civilian Labor Force 16 Or Over + Col. 8)
New Jersey	1,224,711	.033	106,735	.099	1,266,506	118,463	9.35% of N.J.	4.44	13.79
New York	2,909,021	.033	378,347	.099	3,008,294	419,919	13.96% of N.Y.	9.23	23.19
TOTAL	4,133,732	.033	485,082	.099	4,274,800	538,381	12.59% of Total	7.81	20.40

* U.S. Department of Commerce, Estimates of Coverage of Population by Sex, Race, and Age: Demographic Analysis, PHC (E)-4, Table 3, at 29. PX 3.

** Original Total = Corrected Total — (Corrected Total x Undercount Fraction)

$$\text{or} \quad \begin{aligned} 0 &= C - (C \times F) \\ 0 &= C (1 - F) \end{aligned}$$

$$\text{Therefore } C = \frac{0}{1 - F}; \quad \text{or } \text{Corrected Total} = \frac{\text{Original Total}}{1 - \text{Appropriate Undercount Fraction}}$$

$$= \frac{\text{Col. 1 or Col. 2}}{(1 - \text{Col. 5 or Col. 6})} = \frac{\text{Col. 1 or Col. 2}}{(1 - \text{Col. 5 or Col. 4})}$$

*** Spanish language figures are uncorrected due to the fact that estimates of the percentage of Spanish language individuals undercounted have not been made by the Bureau of Census. PX 3, at 21.

TABLE B(1)

Total Civilian Male Labor Force 16 Or Over With High School Education Or Less

State	Total Male Civilian Labor Force (Table 85)	Number Of Total Pop. Male 25+ With High School Education Or Less (Table 83)	Number Of Total Male Pop. 25+ (Table 83)	Column 2 ÷ Column 3 = % Of Males In Pop. With High School Education Or Less	Column 1 X Column 4 = Civilian Male Labor Force 16 Or Over With High School Education Or Less
New Jersey	1,224,711	906,142	1,237,221	73.24%	897,073
New York	2,909,021	2,286,522	3,113,966	73.43%	2,136,034
TOTAL	4,133,732	3,192,664	4,351,187	73.37%	3,033,107

TABLE B(2)

Black Male Labor Force 16 Or Over With A High School Education Or Less

State	Total Black Males 16 Or Over In Civilian Labor Force (Table 92)	No. Black Males 25+ In Population With High School Education Or Less (Table 91)	No. Black Males 25+ In Population (Table 91)	Column 2 ÷ Column 3 = % Of Black Males In Pop. With High School Education Or Less	Column 1 X Column 4 = Black Males 16 Or Over In Civilian Labor Force With High School Education Or Less
New Jersey	106,735	96,727	107,800	89.7%	95,667
New York	378,347	358,538	408,353	87.8%	332,192
TOTAL	485,082	455,265	516,153	88.2%	427,859
Total Black Male Civilian Labor Force As A % Of The Total Male Civilian Labor Force (Table B(1))					
New Jersey	8.72%				
New York	13.01%				
TOTAL	11.73%				

TABLE B(3)

Spanish Language Males 16 Or Over In Civilian Labor Force With a High School Education Or Less

State	Total Spanish Language Male 16 Or Over In Civilian Labor Force (Table C)	No. Puerto Rican Male 25+ In Population With High School Education Or Less (Table 97)	No. Puerto Rican Males 25+ In Population (Table 97)	Col. 2 ÷ Col. 3 = % Of Sp. Language Males In Population With High School Education Or Less*	Col. 1 X Col. 4 = Sp. Language Males 16 Or Over In Civilian Labor Force With High School Education Or Less*	Col. 5 X (1 - 11.6%) = Sp. Language Males (exclusive of black Spanish language males) 16 Or Over In Civilian Labor Force With High School Education Or Less**
New Jersey	54,336	18,620	19,698	94.5%	51,547	45,568
New York	268,377	154,998	162,343	95.5%	256,234	226,510
TOTAL	322,713	173,618	182,041	95.4%	307,787	272,078
	Total Spanish Male Civilian Labor Force As A % Of Total Male Civilian Labor Force (Table B(1))					
New Jersey	4.44%					
New York	9.23%					
TOTAL	7.81%					

* The figure in Columns 2 & 3 are actually figures for Puerto Rican males not Spanish language males, since census tables only gives figures for the former group. We are assuming that Spanish language males attend school with the same frequency as Puerto Rican males.

** Census Data indicate that 11.6% of "Spanish Origin" males in the labor force within the jurisdiction of locals 14 and 15 are black. 1970 Census of Population Subject Reports, Persons of Spanish Origin, PC(2)-1C, Table 2. There is no figure for Spanish language males so the spanish origin figure is used. This additional calculation eliminates certain individuals who have been "double-counted", once as a black and once as a member of the Spanish origin group. Corrected Spanish males = Spanish males - (.116 X Spanish Males)

TABLE C

Computation Of Total Number Of Spanish Language Males 16 Or Over In The Civilian Labor Force

State	Male Puerto Ricans 16 Or Over In The Civilian Labor Force (Table 98)		Spanish Language Pop. (Table 81) Puerto Rican Pop. (Table 81)		Spanish Language Males 16 Or Over In Civilian Labor Force
New Jersey	23,251	X	255,196	=	54,336
			105,262		
New York	163,290	X	1,390,087	=	268,377
			845,775		
TOTAL	186,541	X	1,645,283	=	322,713
			951,037		

Table 81. Ethnic Characteristics for Areas and Places: 1970

(Data based on sample, see text. For meaning of symbols, see text.)

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas Albany-Schenectady-Troy				
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance
NATIVITY AND PARENTAGE								
Total population	16 178 612	4 666 793	11 571 819	721 918	115 875	77 889	62 987	287 346
Native	13 921 741	4 106 831	9 814 910	684 055	108 067	70 715	59 397	273 430
Native parentage	10 014 524	3 003 991	7 010 533	555 169	87 330	51 938	48 405	219 748
Foreign or mixed parentage	3 907 217	1 102 840	2 804 377	128 886	20 737	18 777	10 992	53 702
Foreign born	2 256 871	699 962	1 756 909	37 855	7 808	7 144	3 310	13 890
COUNTRY OF ORIGIN								
Total foreign born	2 256 871	699 962	1 756 909	37 855	7 808	7 144	3 310	13 890
United Kingdom	110 523	33 496	77 027	3 475	539	511	234	1 580
Ireland	99 146	14 704	84 442	1 305	429	130	156	449
Norway	18 949	3 679	15 270	185	14	—	11	107
Sweden	12 233	2 879	9 354	252	17	50	10	48
Denmark	1 704	1 734	—	324	33	49	77	82
Netherlands	13 080	6 451	6 629	366	74	6	5	179
Switzerland	9 577	3 188	6 389	125	6	14	11	37
France	25 381	5 071	20 310	272	57	46	4	142
Germany	189 149	48 199	140 950	4 405	674	517	315	1 645
Czechoslovakia	177 068	40 199	137 007	3 519	769	860	228	1 296
Austria	36 423	9 713	26 710	599	67	99	20	206
Hungary	69 489	12 604	56 885	1 022	148	107	116	459
Yugoslavia	53 430	15 493	37 937	585	58	199	12	202
U.S.S.R.	25 109	5 874	19 235	147	27	11	7	67
Lithuania	155 491	22 871	132 620	1 858	533	182	342	579
Greece	11 069	2 938	8 131	232	43	27	7	97
Italy	48 177	8 485	39 692	537	106	80	102	102
Other Europe	373 547	93 673	279 874	9 616	2 310	3 102	785	2 862
Asia	97 052	24 900	72 152	1 034	288	149	41	418
Western Asia	129 327	21 315	108 012	1 888	507	177	584	584
China	47 476	9 261	38 215	804	154	45	237	308
Japan	43 157	3 039	40 118	214	47	33	69	69
Other Asia	10 794	1 363	9 431	189	40	39	32	54
Canada	37 898	7 632	30 266	681	266	96	169	153
Mexico	45 070	12 395	32 675	4 057	664	374	310	1 987
Cuba	5 125	892	4 233	23	—	6	4	11
Other America	128 263	57 921	70 342	199	31	41	47	47
All other	308 360	30 596	277 764	662	201	166	61	156
Not reported	24 841	3 946	20 895	203	31	19	19	61
Total foreign or mixed parentage	73 720	16 344	57 376	1 045	129	226	142	415
MOTHER TONGUE								
Total native	13 921 741	4 106 831	9 814 910	684 055	108 067	70 715	59 397	273 430
English	9 281 116	2 945 612	6 335 504	552 880	85 158	51 314	47 798	221 417
French	76 441	18 934	57 507	16 045	1 107	1 391	409	8 268
German	337 612	117 681	219 931	12 859	2 160	1 467	970	4 910
Polish	231 299	131 519	99 880	17 709	1 777	4 190	1 145	7 304
Russian	40 611	15 618	24 993	1 385	180	111	87	531
Yiddish	526 241	69 567	456 674	5 368	2 368	704	528	1 446
Italian	961 820	282 158	679 662	31 000	4 816	6 357	2 305	13 683
Spanish	1 108 939	129 476	979 463	1 930	353	222	202	632
All other	494 143	84 256	309 887	14 034	2 123	1 764	1 432	6 497
Not reported	863 419	212 010	651 409	28 647	8 025	3 095	3 321	8 442
Total foreign born	2 256 871	699 962	1 756 909	37 855	7 808	7 144	3 310	13 890
English	340 959	64 972	295 987	6 967	1 491	912	497	2 946
French	76 528	10 352	66 176	2 411	295	199	211	1 275
German	264 003	65 325	198 678	5 219	790	567	353	2 030
Polish	94 035	33 827	60 208	3 271	629	805	215	1 355
Russian	44 660	9 039	35 621	688	132	40	108	278
Yiddish	224 996	18 467	206 529	1 230	642	201	125	1 196
Italian	377 405	95 061	282 344	9 731	2 172	3 204	780	2 924
Spanish	331 012	68 160	262 852	1 711	306	206	100	298
All other	458 654	111 134	347 520	7 271	1 410	971	1 071	2 628
Not reported	25 019	4 605	20 414	293	66	39	50	116

Includes West Germany and East Germany. Includes Turkey in Europe. Includes Taiwan and Mainland China. *See text for definition.

GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS

NEW YORK 34-337

A-10

Table 83. Educational Characteristics for Areas and Places: 1970

(Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text.)

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas Albany-Schenectady-Troy				
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance
SCHOOL ENROLLMENT								
Total enrolled, 3 years old and over	4 413 296	1 311 066	3 102 230	216 594	23 646	28 022	19 509	66 078
3 to 24 years old	4 326 411	1 289 389	3 037 022	213 486	22 921	19 673	19 212	64 882
Nursery school	90 084	26 994	63 090	3 714	554	376	185	864
Public	25 057	6 611	18 446	160	129	29	84	227
Percent	27.8	24.5	29.2	19.9	28.9	34.3	45.4	12.7
Kindergarten	5 533	1 307	4 226	257	62	13	19	111
Public	59 494	19 076	40 418	2 719	332	232	82	516
Percent	246 305	77 914	170 391	13 289	1 453	1 190	968	5 903
Elementary (1 to 8 years)	220 077	69 258	150 819	10 828	952	914	669	4 757
Public	88.6	88.9	88.5	81.5	65.5	76.8	69.1	80.6
Percent	17 831	6 633	11 198	2 284	464	248	282	1 076
High school (9 to 12 years)	10 367	2 023	8 344	1 177	37	28	17	70
Public	2 374 091	717 255	1 656 836	113 441	14 248	9 856	8 401	48 181
Percent	1 837 243	564 310	1 272 933	89 564	7 930	7 509	5 463	38 456
College	483 783	142 457	341 326	22 340	5 671	2 265	2 900	9 308
Public	53 065	10 488	42 577	1 517	47	82	138	417
High school (1 to 4 years)	1 075 375	321 161	754 214	50 143	6 766	4 767	3 451	22 030
Public	876 044	267 473	608 571	39 749	3 155	4 124	2 076	18 282
Percent	142 314	38 490	103 824	8 075	2 735	510	1 125	3 005
College	57 017	15 198	41 819	2 299	876	333	250	743
Public	542 556	146 065	396 491	32 897	9 940	3 484	6 207	8 804
Percent	253 917	65 310	188 607	14 135	6 386	972	1 054	3 918
Private	288 639	80 755	207 884	18 162	641	279	170	445
Percent	83 983	21 627	62 356	3 118	3 574	2 512	5 153	4 886
25 years old and over	288 639	80 755	207 884	18 162	641	279	170	445
3 to 24 years old	4 326 411	1 289 389	3 037 022	213 486	22 921	19 673	19 212	64 882
3 and 4 years old	90 283	24 441	65 842	3 333	486	397	172	630
5 and 6 years old	465 232	140 409	324 823	23 282	2 707	2 002	1 668	10 228
7 to 13 years old	2 014 345	611 233	1 403 112	95 384	11 745	8 790	6 793	46 987
14 and 15 years old	568 139	171 200	396 939	27 649	3 693	2 415	2 212	11 925
16 and 17 years old	509 085	153 273	355 812	24 556	3 452	2 418	1 764	11 597
18 and 19 years old	290 535	83 550	206 985	18 781	4 657	3 308	2 146	5 649
20 and 21 years old	151 477	42 300	109 177	10 348	3 308	1 213	2 013	2 415
22 to 24 years old	111 378	28 427	82 951	5 149	1 754	585	831	1 361
25 to 34 years old	129 937	34 547	95 390	5 282	1 159	512	613	1 950
Percent enrolled, 3 to 24 years old	53.9	53.9	53.1	58.0	58.0	54.8	54.8	59.9
3 and 4 years old	16.8	15.6	17.3	15.2	15.2	15.1	15.1	16.3
5 and 6 years old	81.3	82.4	80.9	83.4	83.4	81.7	82.2	89.4
7 to 13 years old	97.4	98.0	97.1	98.2	98.2	97.0	97.0	99.7
14 and 15 years old	96.5	97.0	96.2	98.2	98.2	96.9	97.5	99.9
16 and 17 years old	91.2	92.1	90.8	94.3	94.3	92.8	93.6	97.0
18 and 19 years old	59.9	61.3	59.1	76.6	76.6	65.5	76.5	87.0
20 and 21 years old	33.0	34.5	32.5	43.7	43.7	41.7	36.7	55.2
22 to 24 years old	15.5	14.6	15.9	25.9	25.9	14.6	23.8	35.2
25 to 34 years old	6.4	6.2	6.4	9.7	9.7	6.0	9.8	12.3
MALES 16 TO 21 YEARS OLD NOT ATTENDING SCHOOL								
Total	235 301	66 963	174 298	9 380	1 423	1 029	1 175	3 176
Not high school graduate	105 602	25 154	80 448	3 334	647	291	474	1 008
Percent of all males 16 to 21 years old	14.7	12.3	13.7	8.9	9.7	8.8	9.4	7.7
Employed or in Armed Forces	54 092	14 885	39 207	2 167	394	257	300	711
Unemployed or not in labor force	51 510	10 269	41 241	1 167	253	134	174	297
High school graduate	129 699	35 749	93 950	6 046	976	538	701	2 165
Employed or in Armed Forces	94 155	27 895	66 260	4 906	787	543	535	1 709
Unemployed or not in labor force	35 544	7 854	27 690	1 140	189	95	166	459
YEARS OF SCHOOL COMPLETED								
Total, 25 years old and over	4 351 187	1 237 221	3 113 966	185 328	29 363	29 450	14 612	74 917
No school years completed	90 200	19 114	71 086	1 978	402	350	172	623
Elementary	148 531	39 783	108 748	3 762	815	650	493	1 817
1 to 4 years	272 390	72 739	199 651	8 081	1 919	1 181	898	2 899
5 and 6 years	175 702	54 565	121 137	8 564	1 402	922	795	2 857
7 years	530 355	156 064	374 291	23 495	3 861	2 473	2 326	7 960
High school	830 449	234 204	596 245	36 241	6 284	3 913	3 055	13 710
1 to 3 years	1 145 037	329 613	815 424	53 374	5 506	6 552	3 710	21 945
4 years	435 229	117 620	317 609	18 775	2 556	1 882	8 286	8 286
College	348 917	112 672	236 245	13 777	897	1 135	741	7 253
1 to 3 years	374 377	100 787	273 590	16 381	2 543	1 900	900	8 189
5 years or more	12.1	12.1	12.1	12.2	11.9	12.1	11.4	12.4
Median school years completed	5 697 471	1 609 548	3 687 911	215 685	34 882	25 749	18 666	85 678
No school years completed	137 531	28 962	108 569	2 635	544	446	282	786
Elementary	184 141	45 802	138 339	4 196	907	607	499	1 474
1 to 4 years	328 328	82 373	245 955	8 804	1 796	1 311	1 095	3 104
5 and 6 years	195 160	57 702	137 458	8 475	1 522	983	1 055	3 228
7 years	692 622	195 219	497 403	27 207	5 085	3 269	3 229	9 440
High school	941 770	263 613	678 157	41 806	7 385	5 345	4 081	15 404
1 to 3 years	1 245 074	408 759	836 315	60 524	12 461	9 603	5 906	33 113
4 years	418 574	117 585	300 989	21 993	3 338	2 054	1 467	9 822
College	277 218	82 118	195 100	12 344	1 948	980	616	5 903
5 years or more	177 053	37 427	139 626	7 899	1 776	734	446	3 404
Median school years completed	12.0	12.1	12.0	12.2	12.1	12.1	11.3	12.3
PERCENT BY LEVEL OF SCHOOL COMPLETED								
Total persons, 25 years old and over	9 448 658	2 646 781	6 801 877	401 613	66 147	46 199	23 278	168 596
Less than 5 years of elementary school	5.9	5.0	6.4	3.1	4.2	5.3	4.3	2.5
Less than 1 year of high school	29.2	28.4	29.4	24.5	27.7	24.4	31.1	20.9
4 years of high school or more	52.1	52.8	51.8	56.1	51.8	52.7	45.5	61.0
4 years of college or more	12.5	12.6	12.4	12.6	12.4	9.2	8.1	15.4
Median school years completed	12.1	12.1	12.1	12.2	12.1	12.1	11.4	12.3
Total persons, 18 to 24 years old	1 660 559	452 915	1 207 644	82 621	18 682	9 582	11 155	26 528
4 years of high school or more	64.0	66.4	63.0	71.9	73.8	72.8	75.7	70.7
4 years of college or more	8.9	7.9	9.3	8.0	9.3	8.0	7.8	8.2
VOCATIONAL TRAINING OF PERSONS 16 TO 64 YEARS OLD								
Male, with less than 15 years of school	3 827 729	1 102 630	2 725 099	167 430	25 656	19 012	16 340	63 821
Percent with vocational training	30.5	31.6	30.1	30.3	25.0	22.1	28.4	31.0
Female, with less than 15 years of school	4 675 548	1 317 819	3 357 729	196 998	23 981	22 145	17 080	76 296
Percent with vocational training	26.1	25.2	26.4	24.6	24.4	29.7	19.8	24.9

GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS

NEW YORK 34-349

A-11

Table 85. Employment Status by Sex, for Areas and Places: 1970

(Data based on sample, see text. For maximum base for derived figures (percent, median, etc.) and meaning of symbols, see text)

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas Albany-Schenectady-Troy				
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance
EMPLOYMENT STATUS								
Males, 16 years old and over	1 294 994	1 531 029	3 863 066	227 467	39 617	26 786	22 626	95 044
Labor force	4 154 480	1 228 191	2 926 289	181 529	28 266	19 173	14 424	73 939
Percent of total	77.0	80.2	75.8	79.4	72.4	71.6	64.4	77.7
Armed Forces	20 146	1 480	17 268	1 190	75	56	109	542
Civilian labor force	4 133 732	1 224 711	2 909 021	180 339	28 191	19 117	14 315	73 417
Employed	3 997 063	1 188 559	2 808 504	174 628	27 012	18 364	13 961	71 620
Unemployed	136 669	36 152	100 517	5 711	1 179	753	554	1 797
Percent of civilian labor force	3.3	3.0	3.5	3.2	4.2	3.8	3.8	2.4
Not in labor force	1 239 614	302 838	934 776	55 938	10 751	7 613	7 402	18 687
Inmate of institution	67 271	14 454	52 717	2 042	794	92	190	704
Enrolled in school	348 875	99 558	249 317	20 034	3 751	2 444	3 720	6 588
Other: Under 65 years old	338 208	69 239	268 969	11 054	1 928	1 614	1 243	3 718
Percent disabled	29.0	41.8	38.3	51.4	52.1	51.7	51.4	48.8
65 years and over	445 160	119 367	345 793	22 808	4 278	3 463	2 349	7 877
Males, 14 and 15 years old	388 385	96 061	218 324	14 587	3 881	1 325	1 688	6 835
Labor force	28 089	10 402	17 687	5 095	380	178	190	824
Percent of total	9.4	11.5	8.4	14.4	18.3	17.8	17.3	13.7
Employed	24 953	9 347	15 606	1 960	359	162	178	785
Unemployed	3 097	1 056	2 041	135	21	16	12	39
Percent of civilian labor force	11.0	10.0	11.7	11.7	9.0	9.0	6.3	4.7
Not in labor force	272 296	79 429	192 867	12 492	1 701	1 147	898	5 208
Females, 16 years old and over	6 273 181	1 736 023	4 537 158	272 216	49 492	31 516	24 434	105 227
Labor force	2 644 591	763 915	1 880 676	114 456	22 842	13 334	10 424	43 919
Percent of total	42.2	44.0	41.5	42.0	42.3	42.3	42.7	41.7
Armed Forces	658	143	515	515	—	—	—	—
Civilian labor force	2 643 933	763 772	1 880 161	114 456	22 842	13 334	10 424	43 919
Employed	2 523 587	726 991	1 796 596	110 530	22 242	12 851	10 041	42 267
Unemployed	118 346	36 781	81 565	3 926	600	483	383	1 552
Percent of civilian labor force	4.5	4.8	4.3	3.4	2.6	3.6	3.5	3.5
Not in labor force	3 628 590	972 108	2 656 482	157 760	26 650	18 182	14 010	61 408
Inmate of institution	68 910	15 499	53 411	2 674	304	288	473	891
Enrolled in school	362 441	97 525	264 916	19 845	4 735	1 617	1 617	6 599
Other: Under 65 years old	2 360 675	638 708	1 721 967	94 223	12 940	9 922	7 290	39 287
Percent disabled	12.5	11.5	12.9	11.4	14.1	14.6	14.1	11.2
65 years and over	536 564	220 376	616 188	41 018	8 671	6 355	4 430	14 371
Females, 14 and 15 years old	388 638	86 525	292 113	13 765	1 726	1 219	1 188	5 834
Labor force	15 548	5 557	9 991	825	183	66	51	320
Percent of total	4.4	6.4	4.9	6.0	10.6	4.3	4.3	5.5
Employed	13 463	4 678	8 805	693	145	61	34	276
Unemployed	2 065	679	1 386	132	38	5	17	44
Percent of civilian labor force	13.3	12.2	13.9	16.0	20.8	13.3	12.9	13.8
Not in labor force	273 090	80 968	192 122	12 940	1 543	1 153	1 129	5 514
MARITAL STATUS AND PRESENCE OF OWN CHILDREN								
Total women, 16 years old and over	6 273 181	1 736 023	4 537 158	272 216	49 492	31 516	24 434	105 227
With own children under 6 years	1 040 318	301 703	738 615	47 416	10 071	4 752	3 732	19 380
In labor force	222 192	72 186	149 996	12 389	1 871	1 509	1 120	4 418
Percent in labor force	21.4	23.9	20.3	26.1	30.8	31.8	30.0	22.8
With own children 6 to 17 years only	1 175 198	352 308	822 890	48 937	8 266	4 467	3 372	21 630
In labor force	548 623	176 515	372 048	25 015	3 445	2 044	1 767	10 785
Percent in labor force	46.7	50.1	45.2	51.1	55.0	56.4	52.4	49.9
No own children under 18 years	4 057 665	1 082 012	2 975 652	175 843	37 355	22 077	17 330	64 217
In labor force	1 873 776	515 144	1 358 632	77 052	17 526	9 181	7 537	28 716
Percent in labor force	46.2	47.6	45.7	43.8	46.9	41.6	43.5	44.6
Married women, 16 years old and over	3 491 426	1 030 511	2 460 909	156 446	21 063	16 781	11 468	66 223
With own children under 6 years	891 762	268 948	622 814	43 457	4 951	4 188	3 236	18 255
In labor force	174 198	58 251	115 947	10 283	1 320	1 204	853	3 809
Percent in labor force	19.5	21.7	18.6	23.7	26.7	28.8	26.4	20.9
With own children 6 to 17 years only	985 271	306 794	678 477	43 018	4 864	3 893	2 717	19 620
In labor force	437 418	146 386	291 032	20 791	2 454	2 082	1 333	9 306
Percent in labor force	44.4	47.7	42.9	48.3	50.5	53.5	47.4	47.4
No own children under 18 years	1 614 387	454 769	1 159 618	70 171	11 248	8 700	5 487	28 348
In labor force	698 475	207 314	491 161	30 009	4 914	3 405	2 244	12 590
Percent in labor force	43.3	45.6	42.4	42.8	43.7	39.1	40.9	44.4
Other women	2 781 755	705 512	2 076 249	115 770	28 529	14 735	12 966	39 384
With own children under 6 years	148 556	32 755	115 801	3 959	1 120	564	496	1 125
In labor force	47 994	13 945	34 049	2 104	551	303	267	609
Percent in labor force	32.3	42.6	29.4	53.1	49.2	53.7	53.8	54.1
With own children 6 to 17 years only	189 927	45 514	144 413	5 939	1 402	794	655	2 510
In labor force	111 205	30 189	81 016	4 224	991	562	434	1 479
Percent in labor force	58.4	66.3	56.1	71.1	70.7	70.8	66.3	73.6
No own children under 18 years	2 443 248	627 243	1 816 005	105 672	26 107	13 377	11 843	35 969
In labor force	1 175 301	307 830	867 471	47 043	12 612	5 776	5 292	16 126
Percent in labor force	48.1	49.1	47.8	44.5	48.3	43.2	44.7	44.8
PERCENT IN LABOR FORCE								
Males: 16 and 17 years	27.7	33.2	25.3	36.3	44.2	34.6	37.7	35.5
18 and 19 years	50.5	56.1	48.3	49.3	47.0	45.9	35.9	35.9
20 and 21 years	63.7	67.7	62.2	64.4	61.0	58.0	46.1	71.9
22 to 24 years	82.5	86.7	81.0	85.8	81.1	85.1	72.5	89.8
25 to 34 years	92.9	95.3	91.9	93.4	91.3	95.6	91.8	97.3
35 to 44 years	94.6	96.7	93.7	97.2	95.1	95.3	95.7	97.9
45 to 64 years	89.7	92.0	88.7	89.4	86.8	86.9	86.5	91.2
65 years and over	29.6	29.2	29.7	25.9	31.1	20.0	24.8	26.4
Females: 16 and 17 years	23.9	28.6	21.9	25.4	28.9	21.9	27.0	28.1
18 and 19 years	50.8	57.2	48.3	46.4	41.3	53.2	39.0	52.8
20 and 21 years	59.2	63.7	57.6	61.0	56.3	66.1	61.1	61.1
22 to 24 years	58.9	61.4	57.9	58.9	64.5	62.1	57.7	59.2
25 to 34 years	41.8	42.2	41.6	41.9	55.1	48.4	46.7	37.2
35 to 44 years	47.8	49.8	47.0	49.7	55.4	57.2	54.2	47.2
45 to 64 years	50.9	52.3	50.4	52.5	57.5	58.2	56.5	52.1
65 years and over	11.4	10.3	11.7	10.4	13.6	7.5	11.5	10.0

A-12

Table 91. Social Characteristics of the Negro Population for Areas and Places: 1970

(Data based on sample, see text. For minimum base for derived figures (percent, million, etc.) and meaning of symbols, see text)

Standard Metropolitan
Statistical Areas
Places of 50,000 or More
(or Central Cities)
Urban Balance
Urbanized Areas
Places of 50,000 or More

PLACE OF BIRTH

Total population	2 488 345	517 517	1 882 848
Foreign born	176 712	8 383	168 489
Native	2 323 633	509 134	1 714 499
Born in State of residence	1 245 594	245 250	982 144
Born in different State	699 847	189 251	510 596
Northwest	50 120	18 637	31 483
South	18 311	3 487	14 824
North Central	427 298	166 028	261 270
West	4 298	901	3 397
Born abroad, of nat. etc.	56 209	3 646	52 563
State of birth not reported	222 203	53 087	169 116

RESIDENCE IN 1965

Total population, 5 years old and over	2 129 573	455 872	1 683 701
Same house	1 104 066	223 486	880 580
Different house in United States	746 166	203 513	542 653
Same county	515 338	137 705	377 633
Different county	230 828	65 808	165 020
Some State	169 786	13 023	156 763
Different State	83 042	30 785	52 257
Northwest	17 275	9 950	7 325
North Central	6 026	1 628	4 398
South	56 646	18 440	38 206
West	3 095	767	2 328
Abroad	78 015	4 792	73 223
Moved, 1965 residence not reported	189 326	44 081	145 245

SCHOOL ENROLLMENT

Total enrolled, 3 to 14 years old	714 312	163 797	550 515
Nursery school	15 895	4 373	11 522
Public	10 675	2 837	7 838
Kindergarten	45 236	10 705	34 531
Public	42 671	10 256	32 415
Elementary (1 to 8 years)	441 317	103 289	338 028
Public	412 055	98 350	313 705
High school (9 to 14 years)	169 501	36 916	132 585
Public	159 031	33 504	125 527
College	42 273	8 514	33 759
Percent enrolled, 3 to 14 years old	50.4	51.4	50.8
3 and 4 years old	17.8	19.2	17.4
5 and 6 years old	77.8	79.6	77.2
7 to 13 years old	95.2	96.1	95.2
4 and 15 years old	94.0	93.3	94.2
16 and 17 years old	85.0	84.7	85.1
18 and 19 years old	46.4	45.8	46.6
20 and 21 years old	16.2	15.0	16.9
22 to 24 years old	8.2	6.1	8.8
25 to 34 years old	4.5	4.4	4.6

YEARS OF SCHOOL COMPLETED

Males, 25 years old and over	516 153	107 800	408 353
No school years completed	10 182	2 415	7 767
Elementary: 1 to 4 years	32 155	8 444	23 711
5 to 7 years	87 273	17 440	69 833
8 years	54 954	12 209	42 745
High school: 1 to 3 years	133 335	28 912	104 423
4 years	143 366	26 807	116 559
College: 1 to 3 years	36 016	6 212	29 804
4 years or more	24 872	4 861	20 011
Median school years completed	10.8	10.3	10.9
Percent high school graduates	39.6	33.1	40.7
Females, 25 years old and over	678 784	134 029	544 755
No school years completed	11 863	2 157	9 706
Elementary: 1 to 4 years	34 651	7 141	27 510
5 to 7 years	102 124	18 910	83 214
8 years	73 674	14 758	58 916
High school: 1 to 3 years	182 332	38 986	143 346
4 years	207 533	40 138	167 395
College: 1 to 3 years	40 474	6 874	33 600
4 years or more	26 133	5 075	21 058
Median school years completed	10.9	10.9	10.9
Percent high school graduates	40.4	38.9	40.8

FAMILY COMPOSITION

Families	558 253	118 121	440 132
With own children under 3 years	107 469	24 980	82 489
With own children under 6 years	186 123	42 078	144 045
With own children under 12 years	291 261	64 610	226 651
With own children under 18 years	356 200	78 171	278 029
With sons/daughters under 25 years	388 417	84 214	304 203
With sons/daughters 25 to 34 years	158 531	34 202	124 329
With sons/daughters 35 to 44 years	53 924	17 045	36 879
Persons, under 18 years old	942 343	218 411	723 932
Living with both parents	514 282	127 956	386 326
Percent of total	54.6	54.3	54.1

CHILDREN EVER BORN

Women, 25 to 44 yr. old, ever married	128 487	30 638	97 849
Children ever born	443 016	97 548	345 468
Per 1,000 women ever married	2 945	3 185	2 884

New York-Northeastern New Jersey SCA				Standard metropolitan statistical areas				
				Albany-Schenectady-Troy				
Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance	
2 488 345	517 517	1 882 848	23 188	13 881	3 153	2 882	2 414	
176 712	8 383	168 489	8 746	87	15	4	46	
2 323 633	509 134	1 714 499	23 092	13 794	3 138	2 878	2 368	
1 245 394	263 250	982 144	12 909	7 672	1 924	1 547	1 262	
699 847	189 251	510 596	7 777	4 479	985	1 279	912	
50 120	18 637	31 483	443	150	106	22	101	
18 311	3 487	14 824	193	89	41	6	38	
427 298	166 028	261 270	7 088	4 215	826	1 101	765	
4 298	901	3 397	53	25	12	-	8	
56 209	3 646	52 563	133	8	18	-	5	
222 203	53 067	169 136	2 203	1 625	161	182	189	
2 129 573	455 872	1 683 701	26 267	12 166	2 734	2 467	2 243	
1 104 066	223 486	880 580	8 945	5 229	1 036	1 159	1 076	
746 166	203 513	542 653	9 504	5 446	1 441	1 974	1 011	
515 338	137 705	377 633	6 604	4 351	765	686	594	
252 828	65 808	207 020	2 700	1 095	676	208	417	
169 786	15 022	154 763	1 476	676	183	183	220	
83 042	30 785	52 257	1 224	619	231	105	197	
17 275	9 950	7 325	158	42	49	15	23	
6 026	1 628	4 398	165	38	32	32	32	
56 646	18 440	38 206	854	490	136	90	135	
3 095	767	2 328	47	-	28	-	7	
78 015	4 792	73 223	111	45	21	4	35	
189 326	44 081	145 245	1 987	1 284	236	330	121	
714 312	163 797	550 515	7 763	4 643	1 189	981	675	
15 895	4 373	11 522	238	152	28	33	19	
10 675	2 837	7 838	180	78	17	22	22	
45 236	10 705	34 531	597	380	77	82	46	
42 671	10 256	32 415	533	327	77	71	46	
441 317	103 289	338 028	4 706	2 799	652	649	348	
412 055	98 350	313 705	4 244	2 527	629	566	311	
169 501	36 916	132 585	1 718	908	307	193	166	
159 031	33 504	125 527	1 595	899	303	180	154	
42 273	8 514	33 759	504	324	45	24	96	
50.4	51.4	50.8	54.8	53.7	58.2	53.8	52.9	
17.8	19.2	17.4	20.2	21.0	24.7	13.9	...	
77.8	79.6	77.2	87.7	86.2	99.9	99.6	...	
95.2	96.1	95.2	95.7	96.0	99.7	99.2	...	
94.0	93.3	94.2	94.6	93.7	99.9	93.2	...	
85.0	84.7	85.1	90.2	86.9	93.0	93.0	...	
46.4	45.8	46.6	56.8	57.6	50.7	4.0	...	
16.2	15.0	16.9	19.8	24.3	-	-	...	
8.2	6.1	8.8	4.4	5.4	-	-	...	
4.5	4.4	4.6	4.9	2.4	1.3	6.8	...	
516 153	107 800	408 353	4 736	2 734	645	537	596	
10 182	2 415	7 767	115	91	12	-	12	
32 155	8 444	23 711	136	78	28	37	57	
87 273	17 440	69 833	910	531	135	114	104	
54 954	12 209	42 745	622	420	80	69	51	
133 335	28 912	104 423	1 220	819	124	168	97	
143 366	26 807	116 559	991	517	214	80	128	
36 016	6 212	29 804	277	76	76	37	62	
24 872	4 861	20 011	269	97	16	32	85	
10.8	10.3	10.9	11.8	11.4	11.4	11.3	11.3	
39.6	33.1	40.7	52.4	52.0	48.0	27.7	46.1	
678 784	134 029	544 755	5 433	3 302	769	590	788	
11 863	2 157	9 706	82	43	13	8	6	
34 651	7 141	27 510	370	229	40	40	67	
102 124	18 910	83 214	907	606	77	81	135	
73 674	14 758	58 916	628	397	57	61	73	
182 332	38 986	143 346	1 706	1 091	229	206	131	
207 533	40 138	167 395	1 487	795	255	165	212	
40 474	6 874	33 600	340	103	87	54	87	
26 133	5 075	21 058	153	38	11	6	72	
10.9	10.9	10.9	10.5	10.0	11.6	10.7	11.5	
40.4	38.9	40.8	53.0	52.3	45.9	34.7	47.3	
558 253	118 121	440 132	5 066	3 068	753	581	545	
107 469	24 980	82 489	1 149	754	137	143	75	
186 123	42 078	144 045	1 926	1 231	243	275	116	
291 261	64 610	226 651	2 764	1 493	375	391	217	
356 200	78 171	278 029	3 386	2 046	470	467	314	
388 417	84 214	304 203	3 992	2 184	492	466	333	
158 531	34 202	124 329	1 430	813	262	145	151	
53 924	17 045	36 879	628	365	105	65	62	
942 343	218 411	723 932	16 816	6 866	1 364	1 365	819	
514 282	127 956	386 326	5 709	3 172	857	544	544	
54.6	54.3	54.1	57.0	52.4	42.8	43.2	66.4	
128 487	30 638	97 849	1 192	710	157	126	119	
443 016	97 548	345 468	4 351	2 823	528	491	277	
2 945	718	2 226	3 430	3 948	3 363	3 610	2 322	

Table 92. Employment Characteristics of the Negro Population for Areas and Places: 1970

(Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text)

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas Albany-Schenectady-Troy					
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance	
EMPLOYMENT STATUS									
Males, 16 years old and over	671 158	141 434	529 724	6 376	3 718	988	758	776	
Labor force	487 575	107 170	380 405	4 674	2 682	676	620	529	
Percent of total	72.6	75.8	71.8	73.4	72.5	68.6	81.8	69.5	
Civilian labor force	485 082	106 735	378 347	4 632	2 676	676	620	529	
Employed	459 362	100 721	358 641	4 464	2 594	610	616	504	
Unemployed	25 720	6 014	19 706	208	282	66	4	25	
Percent of civilian labor force	5.3	5.2	5.2	4.5	9.8	9.8	0.6	4.7	
Not in labor force	183 583	34 264	149 319	1 702	836	232	138	237	
Inmate of institution	19 083	4 137	14 946	117	117	10	71	32	
Enrolled in school	48 567	9 932	38 635	484	256	98	47	68	
Other	79 298	13 004	66 294	495	322	78	34	34	
Under 65 years and over	36 335	7 191	29 144	406	237	46	20	83	
Females, 16 years old and over	675 666	177 332	498 334	7 698	4 642	1 634	873	867	
Labor force	420 628	92 022	328 606	4 037	2 374	584	505	454	
Percent of total	62.3	51.9	66.1	52.5	51.1	57.0	57.8	51.2	
Civilian labor force	420 628	92 022	328 606	4 037	2 374	584	505	454	
Employed	398 841	85 817	313 024	3 883	2 290	567	480	431	
Unemployed	21 787	6 205	15 582	154	84	17	25	23	
Percent of civilian labor force	5.2	6.7	4.8	3.8	3.3	2.9	5.0	5.1	
Not in labor force	254 038	85 310	168 728	3 661	2 268	1 050	368	413	
Inmate of institution	7 637	1 225	6 412	96	12	12	57	30	
Enrolled in school	54 775	11 208	43 567	529	310	88	73	30	
Other	330 627	61 432	269 195	2 519	1 647	280	252	261	
Under 65 years and over	61 219	11 455	49 764	509	299	72	38	117	
Males, 16 to 21 years old	118 286	28 538	89 748	1 688	615	168	162	117	
Not enrolled in school	52 921	11 049	41 872	436	248	55	75	48	
Not high school graduates	30 222	5 842	24 380	245	147	26	20	20	
Unemployed or not in labor force	18 586	3 344	15 242	129	88	18	7	11	
MARITAL STATUS AND PRESENCE OF OWN CHILDREN									
Women, 16 years old and over	675 666	177 332	498 334	7 698	4 642	1 634	873	867	
With own children under 6 years	193 920	44 212	149 708	1 880	1 207	206	276	132	
In labor force	69 711	18 957	50 753	584	322	78	34	34	
With own children 6 to 17 years only	166 905	35 176	131 729	1 440	785	224	174	211	
In labor force	89 183	20 959	68 224	968	500	174	140	127	
Married women, husband present	361 963	77 636	284 327	3 217	1 781	668	498	439	
In labor force	171 762	41 475	130 287	1 779	968	264	275	215	
With own children under 6 years	121 058	27 879	93 179	1 176	671	141	192	114	
In labor force	46 142	12 492	33 650	548	309	106	111	45	
With own children 6 to 17 years only	99 747	21 250	78 497	679	445	134	120	141	
In labor force	52 196	12 775	39 421	575	295	97	100	73	
PERCENT IN LABOR FORCE									
Males:									
14 and 15 years	7.6	8.9	7.2	7.9	9.2	—	—	—	
16 and 17 years	17.8	21.8	16.7	31.8	43.5	—	—	—	
18 and 19 years	44.4	50.9	42.6	53.0	66.5	—	—	—	
20 and 21 years	63.3	66.8	62.4	78.0	78.5	—	—	—	
22 to 24 years	77.2	81.4	74.0	92.9	96.8	—	—	—	
25 to 29 years	87.1	89.5	86.5	98.3	96.8	99.8	91.0	89.0	
30 to 34 years	87.8	90.7	87.0	94.5	93.1	94.6	100.0	81.4	
35 to 39 years	81.9	84.5	81.2	82.6	80.3	98.4	87.0	81.4	
40 to 44 years	76.5	79.3	73.8	82.8	78.2	—	—	29.3	
45 to 49 years	—	—	—	—	—	—	—	—	
50 to 54 years	—	—	—	—	—	—	—	—	
55 to 59 years	—	—	—	—	—	—	—	—	
60 to 64 years	—	—	—	—	—	—	—	—	
65 years and over	—	—	—	—	—	—	—	—	
Females:									
14 and 15 years	5.3	5.0	5.4	9.0	9.6	—	—	—	
16 and 17 years	14.4	16.7	13.7	23.8	26.8	—	—	—	
18 and 19 years	40.7	47.0	39.0	36.8	40.2	—	—	—	
20 and 21 years	52.8	57.2	51.6	58.5	61.7	—	—	—	
22 to 24 years	53.8	58.2	52.6	54.8	53.2	—	—	—	
25 to 29 years	51.2	56.4	49.8	57.8	57.1	65.4	61.1	57.7	
30 to 34 years	56.6	61.4	53.4	60.6	57.4	77.8	68.4	53.9	
35 to 39 years	55.4	57.8	54.9	59.2	58.1	—	60.7	60.7	
40 to 44 years	16.2	18.4	15.6	19.9	15.8	—	—	14.8	
45 to 49 years	—	—	—	—	—	—	—	—	
50 to 54 years	—	—	—	—	—	—	—	—	
55 to 59 years	—	—	—	—	—	—	—	—	
60 to 64 years	—	—	—	—	—	—	—	—	
65 years and over	—	—	—	—	—	—	—	—	
WORKERS IN 1969 BY WEEKS WORKED									
Males, 16 years old and over	517 428	113 922	403 506	5 207	3 063	732	428	412	
50 to 52 weeks	317 027	70 566	246 461	2 872	1 628	372	407	368	
27 to 49 weeks	142 135	31 015	111 120	1 594	982	261	166	140	
26 weeks or less	58 266	12 601	45 665	741	457	99	55	104	
Females, 16 years old and over	471 941	106 089	365 852	4 638	2 708	661	387	356	
50 to 52 weeks	226 678	47 215	179 463	2 160	1 306	262	282	230	
27 to 49 weeks	153 800	33 781	120 019	1 549	748	220	170	172	
26 weeks or less	91 463	25 084	66 379	1 121	646	179	135	114	
CLASS OF WORKER, 16 YEARS OLD AND OVER									
Males employed	459 362	106 731	352 631	4 464	2 594	618	616	504	
Private wage or salary workers	350 538	82 751	267 787	3 334	1 973	434	491	337	
Government workers	92 771	14 457	78 314	1 065	565	142	111	146	
Local government workers	50 600	6 712	43 888	295	151	71	44	24	
Self-employed workers	15 882	3 502	12 380	121	56	34	14	17	
Unpaid family workers	171	171	160	4	—	—	—	4	
Females employed	398 841	85 817	313 024	3 883	2 290	567	480	431	
Private wage or salary workers	297 201	67 962	229 239	2 486	1 477	380	307	265	
Government workers	95 179	16 563	78 616	1 361	795	175	173	146	
Local government workers	57 840	8 255	49 585	372	182	60	92	1	
Self-employed workers	5 990	1 178	4 812	36	18	12	—	—	
Unpaid family workers	471	114	357	—	—	—	—	—	
Males employed, in agriculture	5 912	741	5 171	11	—	—	—	—	
Wage or salary workers	2 132	501	1 631	4	—	—	—	—	
Self-employed workers	766	240	526	7	—	—	—	—	
Unpaid family workers	14	—	14	—	—	—	—	—	
Females employed, in agriculture	1 165	217	948	8	—	—	—	—	
Wage or salary workers	774	230	544	5	—	—	—	—	
Self-employed workers	273	75	198	—	—	—	—	—	
Unpaid family workers	58	12	46	—	—	—	—	—	
LABOR MOBILITY FOR MALES									
Males, 20 to 49 years old in 1970	249 668	56 886	192 782	2 299	1 354	399	291	248	
Nonworker in 1965, nonworker in 1970	24 790	3 816	20 974	142	95	—	7	25	
Nonworker in 1965, worker in 1970	41 398	8 740	32 658	349	251	—	49	11	
Worker in 1965, nonworker in 1970	16 621	3 680	12 941	158	80	32	16	20	

The concept "worker" includes the employed plus members of the Armed Forces.

GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS

NEW YORK 34-403

A-14

Table 97. Social Characteristics of Persons of Puerto Rican Birth or Parentage for Areas and Places: 1970

(Data based on sample; see text for minimum base for derived figures (percent, median, etc.) and meaning of symbols; see text)

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas Albany-Schenectady-Troy					
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance	
PLACE OF BIRTH									
Total population.....	951 637	105 262	845 775	784	155	181	114	236	
Foreign born.....	951 637	105 262	845 775	784	155	181	114	236	
Born in State of residence.....	370 459	31 141	339 318	470	87	133	17	166	
Born in different State.....	11 691	6 837	4 854	26	-	-	-	-	
Northeast.....	8 372	6 456	1 916	23	-	-	23	-	
North Central.....	1 125	113	1 012	-	-	-	-	-	
South.....	1 555	194	1 361	-	-	-	-	-	
West.....	639	74	565	-	-	-	-	-	
Born abroad, at sea, etc.....	560 197	65 555	494 642	285	68	48	68	60	
State of birth not reported.....	8 690	1 729	6 961	-	-	-	-	-	
RESIDENCE IN 1965									
Total population, 5 years old and over.....	824 652	88 192	736 460	673	129	134	114	283	
Same house.....	353 902	25 467	328 435	197	40	20	21	45	
Different house in United States.....	349 183	41 928	307 255	478	77	114	85	141	
Same county.....	250 061	32 375	217 686	216	23	99	24	64	
Different county.....	99 122	9 553	89 569	212	34	15	61	77	
Same State.....	86 347	2 815	83 532	143	34	15	8	96	
Different State.....	12 775	6 738	6 037	69	-	-	53	11	
Northeast.....	9 206	6 363	2 843	64	-	-	53	6	
North Central.....	1 372	104	1 268	-	-	-	-	-	
South.....	1 368	136	1 232	-	-	-	-	-	
West.....	829	135	694	-	-	-	-	-	
Abroad.....	69 727	13 903	55 824	23	9	-	8	6	
Moved, 1965 residence not reported.....	51 240	6 894	44 346	25	14	-	-	11	
SCHOOL ENROLLMENT									
Total enrolled, 3 to 24 years old.....	293 150	31 194	261 956	254	42	81	55	118	
Nursery school.....	2 239	303	1 936	-	-	-	-	-	
Public.....	2 239	303	1 936	-	-	-	-	-	
Kindergarten.....	18 733	2 545	16 188	15	-	5	4	6	
Public.....	17 663	2 363	15 300	11	-	5	-	6	
Elementary (1 to 8 years).....	198 439	22 274	176 165	190	6	29	22	82	
Public.....	176 711	19 544	157 167	190	6	29	22	82	
High school (9 to 12 years).....	63 183	5 018	58 165	88	-	41	14	32	
Public.....	58 058	4 581	53 477	88	-	41	14	27	
College.....	9 556	954	8 602	61	36	6	14	-	
Percent enrolled, 3 to 24 years old.....	46.3	42.3	46.8	66.0	-	69.8	-	67.6	
3 and 4 years old.....	10.6	3	11.1	-	-	-	-	-	
5 and 6 years old.....	71.9	68.7	72.4	-	-	-	-	-	
7 to 13 years old.....	74.5	72.4	74.7	99.9	-	-	-	-	
14 and 15 years old.....	91.5	90.4	91.6	-	-	-	-	-	
16 and 17 years old.....	70.0	70.0	70.0	-	-	-	-	-	
18 and 19 years old.....	41.0	36.6	41.5	-	-	-	-	-	
20 and 21 years old.....	9.0	6.3	9.4	-	-	-	-	-	
22 and 23 years old.....	4.2	4.0	4.2	-	-	-	-	-	
24 and 25 years old.....	2.1	2.0	2.1	-	-	-	-	-	
YEARS OF SCHOOL COMPLETED									
Male, 25 years old and over.....	182 041	19 498	162 543	150	40	33	35	27	
No school years completed.....	7 470	946	6 523	5	-	-	-	-	
Elementary.....	24 267	3 094	21 173	22	5	-	17	-	
1 to 4 years.....	27 974	4 361	23 613	10	-	6	4	-	
5 to 7 years.....	25 942	2 989	22 953	20	-	-	-	-	
High school.....	45 920	3 224	42 696	51	6	15	-	21	
1 to 3 years.....	32 036	2 896	29 140	27	14	7	-	6	
College.....	5 696	664	5 032	6	-	-	-	-	
4 years or more.....	2 727	474	2 253	9	-	-	-	-	
Median school years completed.....	8.8	8.5	8.9	10.1	-	-	-	-	
Percent high school graduates.....	22.2	20.2	22.5	28.0	-	-	-	-	
Female, 25 years old and over.....	217 842	20 321	197 521	121	24	5	34	42	
No school years completed.....	15 490	1 567	13 923	-	-	-	-	-	
Elementary.....	35 049	3 331	31 718	15	-	-	15	-	
1 to 4 years.....	50 099	5 046	45 053	-	-	-	-	-	
5 to 7 years.....	28 078	2 566	25 512	19	6	5	8	-	
High school.....	46 573	3 740	42 833	25	6	-	11	6	
1 to 3 years.....	35 450	3 254	32 196	37	12	-	-	7	
College.....	4 453	491	4 462	14	-	-	-	6	
4 years or more.....	2 150	313	1 837	11	-	-	-	11	
Median school years completed.....	8.3	8.1	8.3	12.0	-	-	-	-	
Percent high school graduates.....	19.3	20.0	19.5	51.2	-	-	-	-	
FAMILY COMPOSITION									
Families.....	231 424	22 756	208 668	166	33	35	31	42	
With own children under 6 years.....	64 516	6 038	58 478	83	22	17	10	18	
With own children under 12 years.....	100 848	12 018	88 830	98	27	17	10	18	
With own children under 18 years.....	146 787	15 990	130 797	126	27	24	23	31	
With sons/daughters under 25 years.....	173 559	18 469	155 090	151	27	25	21	42	
With sons/daughters under 25 years.....	186 240	19 455	166 785	160	27	25	21	42	
With sons/daughters 13 to 19 years.....	99 999	6 195	93 804	73	-	18	12	24	
With sons/daughters 18 to 24 years.....	33 554	2 795	30 759	28	-	5	4	10	
Persons under 18 years old.....	427 909	50 364	377 545	401	41	122	36	146	
Living with both parents.....	266 760	35 349	231 411	322	19	116	36	113	
Percent of total.....	62.3	70.2	61.3	80.3	-	95.1	-	77.4	
CHILDREN EVER BORN									
Women, 15 to 44 yr. old, ever married.....	58 159	5 221	52 938	48	6	5	29	17	
Children ever born.....	196 845	18 516	178 329	176	42	20	36	78	
Per 1 000 women ever married.....	3 385	3 480	3 375	-	-	-	-	-	

GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS

NEW YORK 34-433

A-15

Table 98. Employment Characteristics of Persons of Puerto Rican Birth or Parentage for Areas and Places: 1970

(Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text.)

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas Albany-Schenectady-Troy				
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance
EMPLOYMENT STATUS								
Male, 16 years old and over	256 639	28 746	227 793	229	54	67	29	46
Labor force	187 320	23 292	164 028	170	40	51	17	37
Percent of total	73.2	82.5	72.0	74.2	74.1	76.3	58.6	80.4
Civilian labor force	186 541	23 251	163 290	170	40	51	17	37
Employed	175 305	21 900	153 405	142	29	43	8	37
Unemployed	11 236	1 351	9 885	28	11	8	9	7
Percent of civilian labor force	6.0	5.8	6.0	16.5	27.5	15.7	51.9	21.6
Not in labor force	68 719	4 954	63 765	59	14	16	22	7
Inmate of institution	3 370	1 233	2 137	—	—	—	—	—
Enrolled in school	20 243	1 580	18 663	51	14	16	14	7
Other	37 099	2 091	35 008	8	—	—	8	—
Under 65 years	7 407	450	6 957	—	—	—	—	—
65 years and over	205 610	36 376	169 234	195	40	51	29	46
Labor force	89 541	11 113	78 428	113	34	5	22	33
Percent of total	34.9	38.6	34.4	57.9	61.1	76.3	75.9	80.4
Civilian labor force	89 617	11 107	78 510	113	34	5	22	33
Employed	82 477	10 012	72 465	108	34	5	22	33
Unemployed	7 140	1 095	6 045	5	—	—	—	—
Percent of civilian labor force	8.0	9.8	7.7	4.4	—	—	—	—
Not in labor force	215 969	19 257	196 712	82	20	8	17	23
Inmate of institution	583	12	571	—	—	—	—	—
Enrolled in school	20 001	1 115	18 886	13	8	—	—	—
Other	182 176	16 728	165 448	61	18	8	12	15
Under 65 years	13 169	802	12 367	8	—	—	—	—
65 years and over	36 012	5 438	30 574	53	14	27	—	18
Male, 16 to 64 years old	25 482	3 206	22 276	—	—	—	—	—
Not enrolled in school	19 392	2 548	16 844	—	—	—	—	—
Not high school graduates	9 455	800	8 655	—	—	—	—	—
Unemployed or not in labor force	—	—	—	—	—	—	—	—
MARITAL STATUS AND PRESENCE OF OWN CHILDREN								
Women, 16 years old and over	208 610	36 376	172 234	195	40	51	29	46
With own children under 6 years	101 446	12 205	89 241	35	12	8	—	7
In labor force	15 927	2 273	13 654	—	—	—	—	—
With own children 6 to 17 years only	72 013	6 530	65 483	69	12	5	34	10
In labor force	21 288	2 830	18 458	43	5	—	22	10
Married women, husband present	146 744	18 422	128 322	130	20	13	34	28
In labor force	43 699	6 426	37 273	69	12	5	22	17
With own children under 6 years	70 755	9 531	61 224	29	6	—	—	7
In labor force	11 868	2 178	9 690	6	—	—	—	—
With own children 6 to 17 years only	47 952	4 811	43 141	59	12	5	24	—
In labor force	14 743	2 147	12 596	32	5	—	22	—
PERCENT IN LABOR FORCE								
Male								
14 and 15 years	5.7	8.7	5.4	—	—	—	—	—
16 and 17 years	18.6	34.7	16.9	—	—	—	—	—
18 and 19 years	47.0	65.9	44.7	—	—	—	—	—
20 and 21 years	67.9	78.4	66.4	—	—	—	—	—
22 to 24 years	81.2	90.9	79.8	—	—	—	—	—
25 to 34 years	86.8	91.2	86.1	—	—	—	—	—
35 to 44 years	86.9	91.8	86.3	—	—	—	—	—
45 to 64 years	76.1	82.8	76.1	—	—	—	—	—
65 years and over	19.8	32.2	18.7	—	—	—	—	—
Female								
14 and 15 years	4.4	4.5	4.4	—	—	—	—	—
16 and 17 years	4.3	16.5	14.1	—	—	—	—	—
18 and 19 years	15.9	30.0	14.1	—	—	—	—	—
20 and 21 years	19.5	30.4	18.0	—	—	—	—	—
22 to 24 years	34.6	38.1	34.2	—	—	—	—	—
25 to 34 years	33.4	32.1	34.4	—	—	—	—	—
35 to 44 years	33.4	34.1	32.4	—	—	—	—	—
45 to 64 years	32.5	36.4	32.1	—	—	—	—	—
65 years and over	7.8	10.6	7.6	—	—	—	—	—
WORKERS IN 1969 BY WEEKS WORKED								
Male, 16 years old and over	193 436	23 769	169 667	209	54	51	31	46
50 to 52 weeks	24 445	15 044	9 401	94	15	10	13	36
27 to 49 weeks	10 563	6 415	4 148	70	24	25	14	7
26 weeks or less	8 728	2 230	6 498	41	14	16	4	—
Female, 16 years old and over	109 915	13 092	96 823	142	42	5	27	41
50 to 52 weeks	46 469	5 218	41 251	64	14	—	19	17
27 to 49 weeks	33 525	4 501	29 024	38	20	5	5	—
26 weeks or less	22 921	3 373	19 548	40	8	—	3	24
CLASS OF WORKER, 16 YEARS OLD AND OVER								
Male employed	175 305	21 900	153 405	142	29	43	8	37
Private wage or salary workers	150 156	19 961	130 195	120	15	35	8	37
Government workers	19 824	1 255	18 569	13	7	—	—	—
Local government workers	10 839	729	10 110	8	—	—	—	—
Self-employed workers	5 241	579	4 662	7	—	—	—	—
Unpaid family workers	14	5	9	—	—	—	—	—
Female employed	82 477	10 012	72 465	108	34	—	22	33
Private wage or salary workers	70 227	8 936	61 291	52	16	—	11	5
Government workers	10 700	821	9 879	56	18	—	11	27
Local government workers	6 694	525	6 169	28	6	—	11	11
Self-employed workers	1 124	183	941	—	—	—	—	—
Unpaid family workers	327	73	254	—	—	—	—	—
Male employed, by occupation	982	236	746	—	—	—	—	—
Wage or salary workers	896	231	665	—	—	—	—	—
Self-employed workers	86	5	81	—	—	—	—	—
Unpaid family workers	—	—	—	—	—	—	—	—
Female employed, by occupation	92	7	85	—	—	—	—	—
Wage or salary workers	67	7	60	—	—	—	—	—
Self-employed workers	19	—	19	—	—	—	—	—
Unpaid family workers	6	—	6	—	—	—	—	—
LABOR MOBILITY FOR MALES								
Male, 26 to 49 years old in 1970	163 845	11 175	152 670	74	28	12	13	21
Nonworker in 1965, nonworker in 1970	10 042	693	9 349	—	—	—	—	—
Nonworker in 1965, worker in 1970	11 049	1 320	9 729	—	—	—	—	—
Worker in 1965, nonworker in 1970	8 188	769	7 419	14	5	—	9	—

The concept "worker" includes the employed plus members of the Armed Forces.

GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS

NEW YORK 34-439

A-16

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

MICHAEL DEVORKIN

being duly sworn,
deposes and says that he is employed in the office of
the United States Attorney for the Southern District of
New York.

That on the 10th day of May, 1977
he served 2 copies of the within Amicus Curiae Brief of the U.S. of America
by placing the same in a properly postpaid franked
envelope addressed:

WILLIAM D. APPLER, ESQ.
Bonner, Thompson, Kaplan & O'Connell
900 - 17th St., N.W.
Washington, D.C. 20006

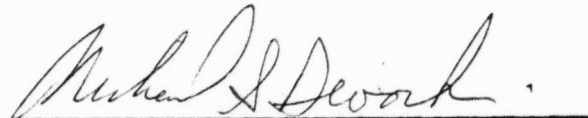
James J.S. Gallagher, Esq.
Shae, Gould, Climenko & Kramer
330 Madison Ave.
New York, N.Y. 10018

ROBERT A. KENNEDY, ESQ.
Doran, Collieran, O'Hara, Pollio
& Dunne, P.C.
1461 Franklin Avenue
Garden City, N. Y. 11530

Harold R. Bassen, Esq.
211 East 43rd St.
New York, N.Y. 10017

Mary -Helen Mautner, Esq.
Equal Employment Opportunity Commission
2401 E. Street, N.W., Washington, D.C. 20506

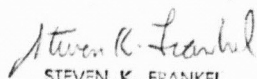
And deponent further says that he sealed the said
envelope and placed the same in the mail chute drop for
mailing at One St. Andrew's Plaza, Borough of Manhattan,
City of New York.



MICHAEL DEVORKIN

Sworn to before me this

10TH day of May, 1977



STEVEN K. FRANKEL
Notary Public, State of New York
No. 24-4607105
Qualified in Kings County
Commission Expires March 30, 1979